

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

168

STEPHEN MIDDLEBROOKS : CIVIL DOCKET FOR CASE
: NO. 17-0412
-VS- :
:
TEVA PHARMACEUTICALS USA, :
INC AND TEVA PHARMACEUTICAL :
INDUSTRIES LIMITED :

ORIGINAL

FILED

MAR 25 2018

PHILADELPHIA, PA

KATE BARIGMAN, Clerk
By MA Dep. Clerk

NOVEMBER 13, 2018

BEFORE HONORABLE JUDGE MARK A. KEARNEY

JURY TRIAL - VOIR DIRE

APPEARANCES:

FOR THE PLAINTIFF: CONSOLE MATTIACCI LAW, LLC
BY: LAURA MATTIACCI, ESQ.
AND KEVIN C. CONSOLE, ESQ.
1525 LOCUST STREET, 9TH FLOOR
PHILADELPHIA, PA 19102

FOR THE DEFENDANTS: STEVENS & LEE
BY: LARRY J. RAPPOPORT, ESQ.
AND JENNIFER A. ERMILIO, ESQ.
1818 MARKET STREET, 29TH FLOOR
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1 THE COURT: GOOD MORNING.

2 ALL COUNSEL: GOOD MORNING, YOUR HONOR.

3 THE COURT: PLEASE BE SEATED.

4 GOOD MORNING. WE ARE HERE THIS MORNING
5 TO BEGIN THE RESOLUTION OF MIDDLEBROOKS V. TEVA
6 PHARMACEUTICAL. CAN I HAVE THE IDENTITY AND APPEARANCE
7 OF TRIAL COUNSEL FOR MIDDLEBROOKS.

8 MS. MATTIACCI: GOOD MORNING, YOUR HONOR.
9 LAURA MATTIACCI FROM CONSOLE MATTIACCI LAW FOR THE
10 PLAINTIFF, STEPHEN MIDDLEBROOKS.

11 THE COURT: GOOD MORNING. AND ON BEHALF
12 OF THE DEFENSE, DEFENDANTS, I WILL TALK ABOUT IN A
13 MINUTE, TEVA.

14 MR. RAPPOPORT: I THINK MR. CONSOLE
15 WANTED TO MAKE AN APPEARANCE AS WELL.

16 MR. CONSOLE: GOOD MORNING, YOUR HONOR.
17 KEVIN CONSOLE ON BEHALF OF THE PLAINTIFF, STEPHEN
18 MIDDLEBROOKS.

19 THE COURT: GOOD MORNING, MR. CONSOLE.
20 ON BEHALF OF TEVA?

21 MR. RAPPOPORT: FOR THE DEFENDANTS, YOUR
22 HONOR, LARRY J. RAPPOPORT, STEVENS & LEE.

23 THE COURT: WELCOME. SO LET ME START. I
24 THINK GETTING READY FOR TRIAL IN YOUR SHOES IS ALWAYS
25 VERY DIFFICULT. AND I WANT TO EXPRESS THE COURT'S

1 APPRECIATION OF HOW MUCH EFFORT GOES INTO TODAY. WE ARE
2 GOING TO GO TO WORK NOW BUT I DON'T WANT YOU ALL TO
3 FORGET HOW GRATEFUL I AM FOR HOW MUCH TIME IT TOOK TO
4 HAVE YOUR CLIENTS TO GET HERE TODAY. I MOVED YOU TO
5 TODAY, YOUR CLIENTS HAVE BEEN WAITING A LONG TIME IN MY
6 WORLD FOR RESOLUTION, SO I WANT TO THANK ALL OF YOU
7 INDIVIDUALLY BEFORE WE EVEN START ABOUT THE HARD WORK
8 YOU TOOK TO GET READY FOR TODAY.

9 NOW WE START WITH THE FIRST QUESTION I
10 HAVE. MR. RAPPOPORT, I'M AWARE THAT WE LEFT YOU
11 SOMEWHAT OFF TO THE SIDE ON VOIR DIRE, I'LL COME BACK TO
12 THAT. I HAVE A COUPLE OF QUESTIONS. THIS GOES TO
13 PLAINTIFF FIRST. HOW AM I EXPLAINING TWO TEVAS? ARE
14 THEY BOTH EMPLOYERS? I SAW NO JOINT EMPLOYER THEORY.
15 WHY IS THERE TWO TEVAS?

16 MS. MATTIACCI: YES, YOUR HONOR, THERE IS
17 A JOINT EMPLOYER.

18 THE COURT: WHERE? DO YOU THINK YOU PLED
19 IT?

20 MS. MATTIACCI: I BELIEVE WE DID, YOUR
21 HONOR.

22 THE COURT: I LOOKED AT IT AND I DIDN'T
23 SEE IT. BUT -- IS AHARONI AN EMPLOYEE OF WHICH COMPANY?

24 MS. MATTIACCI: I BELIEVE IT'S BOTH
25 COMPANIES, YOUR HONOR.

1 THE COURT: TWO PAYCHECKS?

2 MS. MATTIACCI: NOT TWO PAYCHECKS BUT
3 THAT THEY ARE INTEGRATED, THAT THEY HOLD THEMSELVES OUT
4 AS ONE COMPANY, THAT THEY DO BUSINESS AS ONE COMPANY.
5 THEY ARE NOT SEPARATE ENTITIES. I DON'T THINK IT'S IN
6 DISPUTE THAT NIR AHARONI IS THE --

7 THE COURT: OF WHICH COMPANY?

8 MS. MATTIACCI: -- EMPLOYEE.

9 OF TEVA PHARMACEUTICALS.

10 THE COURT: USA?

11 MS. MATTIACCI: TEVA PHARMACEUTICALS USA,
12 INC., IS DOING BUSINESS IN THE UNITED STATES, I BELIEVE,
13 AND THEN TEVA PHARMACEUTICAL INDUSTRIES, LTD., IS THE
14 UMBRELLA COMPANY. SO I BELIEVE THAT BOTH ARE AT ISSUE,
15 YOUR HONOR. I DIDN'T REALLY SEE THAT DISCUSSION.

16 MR. RAPPOPORT: I PROBABLY BETTER NOT
17 SAYING ANYTHING, YOUR HONOR, BECAUSE I DON'T AGREE WITH
18 VERY MUCH OF WHAT COUNSEL JUST SAID.

19 THE COURT: YEAH. I DON'T KNOW HOW YOU
20 CAN DO BOTH. THIS IS NOT A CORPORATE -- YOU DON'T HAVE
21 A PIERCING THEORY. WHAT -- WHAT IS IT? I MEAN, WHO IS
22 THE -- I THOUGHT BY THE DAY -- I WAS DOING A VERDICT
23 SLIP, AND I WAS THINKING, "WHO AM I SUING?"

24 MS. MATTIACCI: YOUR HONOR, NORMALLY WHEN
25 WE HAVE A SITUATION LIKE THIS, BOTH COMPANIES ARE --

1 ARE, YOU KNOW -- FOR INSTANCE, AT&T, INC., AND AT&T
2 BUSINESS SERVICES, THEY ARE DOING BUSINESS JOINTLY. IF
3 THERE IS AN ISSUE, USUALLY THE DEFENDANT MOTIONS FOR
4 SUMMARY JUDGMENT.

5 THE COURT: HERE IS MY PROBLEM -- THAT
6 MAY BE TRUE, BUT HERE'S MY PROBLEM: I CAN'T ENTER A
7 VERDICT AGAINST A NON-EMPLOYER.

8 MS. MATTIACCI: WELL --

9 THE COURT: IT'S NOT CAN I, I CAN ENTER A
10 TITLE VII AND ADEA AND RETALIATION VERDICT AGAINST THEM,
11 BUT WHEN HE IS NOT AN EMPLOYER. CAN I?

12 MS. MATTIACCI: THE DEFINITION OF
13 EMPLOYER IS IF -- IF THEY ARE INTEGRATED, ONE WITH EACH
14 OTHER, IT WOULD MEAN THAT BOTH ENTITIES WOULD BE
15 RESPONSIBLE BECAUSE --

16 THE COURT: THEY ARE NOT, THOUGH. ONE IS
17 A SUB. ONE'S A SUB. THEY ARE NOT INTEGRATED. THEY ARE
18 NOT THE SAME COMPANY. INTEGRATION, YOU'RE RIGHT, IF
19 THEY WERE THE SAME -- IF YOU COULD ARGUE TO ME THEY ARE
20 THE SAME COMPANY, BUT ONE IS A SEPARATE SUBSIDIARY. YOU
21 PLEADED PARAGRAPH 6, AND THAT'S WHAT TRIGGERED ME
22 YESTERDAY WHEN I SAW IT. YOU PLEADED IT.

23 MS. MATTIACCI: RIGHT.

24 THE COURT: SO WHICH ONE IS IT?

25 IS IT THE SUB, OR IS IT THE PARENT?

1 MS. MATTIACCI: I BELIEVE IT'S BOTH, YOUR
2 HONOR. I THINK THAT'S HOW WE PLED IT.

3 ISN'T THAT HOW WE PLED IT? WE HAVE BOTH
4 IN THE CAPTION.

5 THE COURT: YEAH, YOU -- THAT DOESN'T --
6 THAT'S PLEADING. HOW DO WE GO TO TRIAL?

7 MS. MATTIACCI: THAT --

8 THE COURT: WHO IS THE JURY -- HOW DO I
9 EXPLAIN TO THE JURY -- OR HOW DO YOU EXPLAIN TO THE
10 JURY -- YOU HAVE TEVA AS THE PARENT COMPANY; TEVA
11 PHARMACEUTICAL, LTD., IS THE PARENT COMPANY OF TEVA
12 PHARMACEUTICALS. OKAY.

13 SO IF YOUR THEORY IS JOINT EMPLOYER, I
14 DON'T KNOW HOW YOU PLED THAT. YOU SAY "TEVA, LTD.,
15 CONTROLS AND DIRECTS CERTAIN OF THEIR BUSINESS OPERATION
16 AND POLICIES."

17 MS. MATTIACCI: RIGHT.

18 MR. CONSOLE: YOUR HONOR, PARAGRAPH 17 OF
19 THE SECOND AMENDED COMPLAINT STATES THAT "AT ALL TIMES
20 MATERIAL HERETO, PLAINTIFF WAS AN EMPLOYEE OF
21 DEFENDANTS."

22 SO IN PARAGRAPH 17, PLAINTIFF HAS PLED
23 THAT --

24 THE COURT: HE WAS AN EMPLOYEE OF BOTH,
25 THOUGH?

1 MR. CONSOLE: OF BOTH. THAT'S IN
2 PARAGRAPH 17.

3 THE COURT: HOW CAN -- WAS HE OF BOTH?

4 MS. MATTIACCI: YEAH.

5 MR. CONSOLE: YES.

6 MS. MATTIACCI: THAT'S NORMALLY HOW IT
7 WORKS IF YOU HAVE A -- BECAUSE THE SUBSIDIARY IS NOT A
8 SEPARATE ENTITY. IT'S BEING CONTROLLED BY --

9 THE COURT: A SUBSIDIARY IS NOT A
10 SEPARATE ENTITY.

11 MR. RAPPOPORT, IS A SUBSIDIARY A SEPARATE
12 ENTITY?

13 MR. RAPPOPORT: YES, YOUR HONOR.

14 THE COURT: SURE, IT IS. HOW'S IT NOT --

15 MR. RAPPOPORT: IT'S A SEPARATE
16 CORPORATE -- SEPARATE BOARD OF DIRECTORS -- DIRECTORS.

17 THE COURT: SURE.

18 MR. RAPPOPORT: -- SEPARATE TAX RETURNS.

19 THE COURT: HOW'S IT NOT A SEPARATE
20 ENTITY? I'M -- I'M -- MAYBE FOR EMPLOYMENT LAW. I AM
21 TRYING TO UNDERSTAND WHAT YOU ARE SAYING, THOUGH.

22 MS. MATTIACCI: YEAH.

23 THE COURT: HOW DO I TELL THE JURY WHO
24 THE EMPLOYER IS?

25 MS. MATTIACCI: TYPICALLY IN THIS

1 SITUATION, WE JUST TELL THE EMPLOYER IT'S TEVA, AND THEN
2 WE WILL GET INFORMATION DURING THE COURSE OF THE
3 TRIAL --

4 THE COURT: IF YOU WIN, WHO DO I ENTER
5 JUDGMENT AGAINST?

6 MS. MATTIACCI: IT WOULD BE AGAINST BOTH
7 ENTITIES, YOUR HONOR, ONCE THE EVIDENCE COMES IN THAT
8 THESE TWO ENTITIES WERE SEEN AS ONE IN THE SAME, THAT --
9 THERE WAS NO DISTINCTION BETWEEN --

10 THE COURT: TO WHOM?

11 MS. MATTIACCI: TO THE EMPLOYEES
12 THEMSELVES.

13 THE COURT: ON AN AUTHORITY THEORY? WHAT
14 IS YOUR THEORY?

15 MS. MATTIACCI: AS A JOINT EMPLOYER, AS
16 THEY'RE -- THEY ARE ONE IN THE SAME, THAT IT'S JUST A --
17 THERE IS NO -- ALSO, YOUR HONOR, THEY ARE NOT SAYING
18 THAT NIR AHARONI AND THE HR PEOPLE OUT OF ISRAEL WERE
19 EMPLOYEES OF TEVA PHARMACEUTICALS USA. I DON'T BELIEVE
20 SO. SO WE HAVE PEOPLE THAT ARE --

21 THE COURT: THAT'S MY QUESTION.

22 MS. MATTIACCI: -- WORKING FOR --

23 THE COURT: SO LET'S TALK ABOUT THE
24 QUESTION. LET'S GET RIGHT TO IT. WE HAVE AN AMERICAN
25 COMPANY, AND WE HAVE AN ISRAELI COMPANY. EVERYBODY HAS

1 BEEN TALKING ABOUT THE ISRAELI COMPANY. IT STRUCK ME,
2 IT'S NOT REALLY AN ISRAELI COMPANY, IT'S AN AMERICAN
3 COMPANY. OR AM I WRONG?

4 MS. MATTIACCI: I THINK YOU ARE WRONG.

5 THE COURT: WHY? IS HE EMPLOYED BY -- IS
6 HE -- ISN'T HE EMPLOYED BY THE AMERICAN SUBSIDIARY?

7 MS. MATTIACCI: I DON'T BELIEVE THAT
8 MR. AHARONI IS.

9 MR. RAPPOPORT: YOU MEAN THE PLAINTIFF?

10 THE COURT: THE PLAINTIFF, YEAH.

11 MS. MATTIACCI: YES.

12 THE PLAINTIFF IS BUT THE -- BUT THE
13 DECISION MAKER IS NOT. SO THE PERSON -- THE ENTITY THAT
14 CAUSED THE EMPLOYMENT ACTION HERE WAS MR. -- THE
15 EMPLOYER OF AHARONI, WHICH IS WHY TEVA
16 PHARMACEUTICALS -- INDUSTRIES, LTD., IS NAMED BECAUSE
17 THE DECISION MAKER AND THE HARASSER IS NOT AN EMPLOYEE
18 OF TEVA PHARMACEUTICALS USA, INC.

19 THE COURT: IS THE ARGUMENT THAT THE
20 HOSTILE ENVIRONMENT IS IN ISRAEL?

21 MS. MATTIACCI: NO, YOUR HONOR.

22 THE COURT: THEN HOW IS TEVA, LTD., A
23 DEFENDANT ON A HOSTILE ENVIRONMENT CLAIM?

24 MS. MATTIACCI: BECAUSE THE EMPLOYEE OF
25 TEVA, LTD., CAUSED THE HOSTILE ENVIRONMENT AND WAS THE

1 DECISION MAKER IN THE DECISION TO --

2 THE COURT: IN THE UNITED STATES?

3 MS. MATTIACCI: THE DECISION AFFECTED

4 SOMEBODY IN THE UNITED STATES, BUT THE DECISION --

5 THE COURT: I GOT THE DISCRIMINATION.

6 HOW ABOUT THE HOSTILE ENVIRONMENT?

7 MS. MATTIACCI: THE HOSTILE ENVIRONMENT

8 THAT -- THAT HOSTILE ENVIRONMENT OCCURRED IN THE UNITED

9 STATES, IT HAPPENED IN THE UNITED STATES.

10 THE COURT: IT HAPPENED IN THE UNITED

11 STATES.

12 MS. MATTIACCI: BUT BY AN EMPLOYEE OF

13 TEVA, LTD.

14 THE COURT: OKAY. I'LL SEE A RULE 50. I

15 DON'T KNOW. I'LL HEAR THE EVIDENCE ON THAT. I HAVE A

16 REAL CONCERN ON THE HOSTILE ENVIRONMENT, GIVEN WHAT'S

17 HAPPENED HERE, GIVEN THE FACT THAT IT'S TWO DIFFERENT

18 COMPANIES; ONE'S ISRAELI AND ONE'S AMERICAN.

19 MR. RAPPOPORT, DO YOU KNOW, DOES --

20 YOU'VE NEVER RAISED IT. IS THERE A HOSTILE -- DO I HAVE

21 A PROBLEM WITH ISRAELI LAW HERE WITH -- AGAINST AN

22 ISRAELI COMPANY?

23 MR. RAPPOPORT: AS IT RELATES TO THE

24 HOSTILE WORK ENVIRONMENT CLAIM?

25 THE COURT: YES.

1 MR. RAPPOPORT: AS YOU MAY RECALL, YOUR
2 HONOR, I HAD RAISED THAT NO HOSTILE WORK ENVIRONMENT
3 CLAIM WAS EVER ASSERTED.

4 THE COURT: RIGHT.

5 MR. RAPPOPORT: YOU BELIEVE THAT IT WAS.

6 THE COURT: I THINK IT GOES TO THE JURY
7 BUT -- OR GOES TO THE EVIDENCE.

8 MR. RAPPOPORT: RIGHT.

9 THE COURT: BUT MY QUESTION IS DIFFERENT
10 NOW. MY QUESTION IS DIFFERENT. IS THERE A -- CAN WE
11 IMPOSE LIABILITY FOR A HOSTILE WORK ENVIRONMENT AGAINST
12 AN ISRAELI COMPANY?

13 MR. RAPPOPORT: WELL, WE HAD A
14 CONVERSATION WITH REGARD TO THE AGE DISCRIMINATION. AS
15 YOU RECALL, I ADVISED YOU THAT IT'S EXTRATERRITORIAL. I
16 WENT BACK TO THE OFFICE AND -- IN FACT, IT IS
17 EXTRATERRITORIAL.

18 TITLE VII IS THE SAME, YOUR HONOR, SO I
19 BELIEVE THE ANSWER IS YES BUT --

20 THE COURT: OKAY.

21 MR. RAPPOPORT: -- I HAVE NEVER
22 RESEARCHED THE ISSUE, AND BY THE END OF THE TRIAL OR
23 MAYBE BY THE END OF TODAY, I WILL KNOW THE ANSWER TO
24 THAT.

25 THE COURT: I WILL LOOK, TOO. I DIDN'T

1 KNOW.

2 OKAY. IT STRUCK ME, AS I WAS DOING THE
3 VERDICT SLIP, THAT I HAVE TWO DEFENDANTS AND I CANNOT
4 JUST BLOW BY THEM AND CALL THEM TEVA. NEITHER CAN YOU,
5 BECAUSE THERE ARE DIFFERENT STANDARDS HERE, AT LEAST FOR
6 PURPOSES OF TODAY. YOU WILL HAVE TO EXPLAIN TO THE JURY
7 WHAT THEY ARE. OKAY? YOU JUST CAN'T BLOW BY AND SAY
8 "TEVA." ALL RIGHT?

9 YOU MAY DO THAT IN CLOSINGS, ONCE YOU
10 PROVE IT, BUT IN YOUR OPENINGS, YOU CAN'T JUST SAY
11 "TEVA" IN A JOINT EMPLOYER SENSE UNTIL YOU SHOW EVIDENCE
12 OF THAT, BECAUSE RIGHT NOW, I AM NOT SO CERTAIN -- ALL
13 OF THE EVIDENCE THAT I SAW LOOKS LIKE ITS DECISION IS
14 DRIVEN FROM ISRAEL TO THE UNITED STATES. RIGHT? I SAW
15 NOBODY IN THE UNITED STATES DOING ANYTHING. I SAW ALL
16 ISRAELI EMPLOYEES DOING SOMETHING.

17 NOW, I AM WAITING FOR SUMMARY JUDGMENT SO
18 I AM NOT MAKING A JUDGMENT BUT -- SO YOU HAVE TO BE VERY
19 CAREFUL WHEN I GET TO RULE 50 ABOUT WHO -- WHAT -- AS
20 LONG AS YOU'RE GOING AGAINST BOTH DEFENDANTS, I HAVE TO
21 THINK ABOUT BOTH DEFENDANTS SEPARATE -- AS SEPARATE
22 LIABILITY. I MAY HAVE TO GIVE A JOINT EMPLOYER CHARGE,
23 BUT I DON'T KNOW ABOUT THAT IN THIS CASE. THESE ARE
24 NOT -- THIS IS NOT AN AT&T AND AT&T SERVICES. THIS IS
25 AN ISRAELI COMPANY PROBABLY GOVERNED -- MAYBE GOVERNED

1 BY DIFFERENT LAW, MAYBE NOT. MAYBE NOT. GOTCHA,
2 BECAUSE IT'S AMERICANS -- EMPLOYEES. I GOT IT, BUT I
3 HAVE TO EXPLAIN THAT TO THE JURY. ALL RIGHT. OKAY.

4 SO WE EXPECT TO HEAR FROM -- YOU MAY BE
5 SEATED.

6 MR. RAPPOPORT, I AM GOING TO COME TO YOU.

7 WE MAY -- WE ARE WAITING A FEW MINUTES.
8 JUDGE DUBOIS, WHO IS HIGHER THAN ME ON THE LETTERHEAD,
9 IS PICKING A CRIMINAL JURY SO HE WILL TELL US SHORTLY
10 WHERE HE IS GOING TO BE AND THEN WE WILL HAVE -- 24 --
11 24 MEMBERS OF THE PANEL IN THOSE FIRST TWO -- TWO --
12 FIRST TWO ROWS.

13 OKAY. MR. RAPPOPORT, I CUT YOU OFF FOR
14 SENTENCING THE OTHER DAY, AND I DIDN'T WANT TO DO SO.
15 SO I'M -- I'LL CERTAINLY GIVE YOU THE TIME TO --

16 MR. RAPPOPORT: IT WASN'T MY SENTENCING,
17 YOUR HONOR.

18 THE COURT: THAT'S RIGHT. SO IT WAS JUST
19 BOTHERSOME TO YOU, RIGHT?

20 MR. RAPPOPORT: SO WHEN YOU KIND OF WENT
21 THROUGH EVERYTHING IN THE FINAL PRETRIAL CONFERENCE, YOU
22 BEGAN BY TALKING ABOUT VOIR DIRE AND HOW YOU DID IT AND
23 WHAT THE ROLE OF THE LAWYERS WERE, AND YOU MADE A
24 COMMENT AND SAID SOMETHING TO THE EFFECT THAT, I DON'T
25 FEEL LIKE I NEED TO TALK ABOUT HOW AMERICANS VIEW

1 ISRAELIS. I'M PARAPHRASING. THOSE WEREN'T EXACTLY YOUR
2 WORDS.

3 SO IN OUR MODEL VOIR DIRE, WE HAVE A
4 BUNCH OF QUESTIONS WHICH ARE 16, 17, AND 18, ALL OF
5 WHICH RELATED TO SOME EVIDENCE IN THE CASE WITH REGARD
6 TO THE U.S. SUPPORT OF ISRAEL, WHICH ULTIMATELY DOESN'T
7 NEED TO COME IN.

8 BUT WE ASKED JUROR QUESTION 13 OR
9 PROPOSED QUESTION 13 -- OR 15, I'M SORRY, YOUR HONOR.
10 WE SAID: DO YOU HOLD ANY VIEWS REGARDING ISRAELIS?
11 HAVE YOU HAD ANY DEALINGS WITH ISRAELIS OR ISRAELI
12 CORPORATIONS?

13 IF SO, WHAT ARE YOUR VIEWS? DO YOU
14 BELIEVE THESE VIEWS MIGHT AFFECT YOUR ABILITY TO RENDER
15 A FAIR AND IMPARTIAL VERDICT IN THIS CASE?

16 THE COURT: RIGHT.

17 MR. RAPPOPORT: AND WHEN YOU WERE KIND OF
18 DISMISSIVE OF THE WHOLE ISRAELI-U.S. THING, I THINK THAT
19 YOU MAY HAVE PUT THE BABY IN WITH THE BATH WATER.

20 THE COURT: LET ME TELL YOU WHAT I'M
21 SAYING.

22 MR. RAPPOPORT: OKAY.

23 THE COURT: WHAT I'M SAYING IS, DO YOU
24 HAVE ANY VIEWS ABOUT COMPANIES OR BUSINESSPERSONS LIVING
25 IN ISRAEL, WORKING IN ISRAEL. THAT'S WHAT I WANT TO

1 KNOW.

2 MR. RAPPOPORT: AS OPPOSED TO THEIR OWN
3 PERSONAL EXPERIENCES?

4 THE COURT: YES.

5 MR. RAPPOPORT: OKAY.

6 THE COURT: ALL RIGHT? I AM ALSO GOING
7 TO DO THE HEBREW ACCENT QUESTION BECAUSE I THINK THAT'S
8 AN IMPORTANT QUESTION ABOUT THE IDEA THAT SOME OF THE
9 TEVA WITNESSES SPEAK WITH ACCENTS, THIS IS HEBREW, AS
10 ENGLISH IS NOT THEIR FIRST LANGUAGE.

11 I AM NOT DOING -- THE SECOND QUESTION
12 ABOUT WHETHER THAT WOULD INFLUENCE THEM IS SOMETHING WE
13 WOULD ASK IN HERE. NOBODY IS GOING TO PUT THEIR HAND UP
14 IN A GROUP. SO IF SOMEBODY PUTS THEIR HAND UP AND SAYS,
15 YES, I HAVE -- YES, I HAVE VIEWS ABOUT BUSINESSPEOPLE IN
16 ISRAEL, WE ARE NOT DOING THAT IN FRONT OF 22 PEOPLE.
17 THAT'S NOT FAIR TO THEM. I DON'T WANT TO EMBARRASS
18 THEM. I DON'T WANT YOU TO SUFFER FROM IT BY THEM
19 BLAMING YOU FOR ME ASKING A QUESTION ABOUT THEIR VIEWS.

20 I ALSO AM MINDFUL OF THE LIMINE MOTION --
21 GRANTED, UNCONTESTED LIMINE MOTION -- ON RELIGION,
22 ANTI-SEMITISM, THOSE SUCH ISSUES, WHICH ARE NOT GOING TO
23 BE RAISED BY ME NOR BY YOU IN SIDEBAR. THAT'S NOT IN
24 THE CASE.

25 SO I DO THINK IT'S A FAIR QUESTION ABOUT

1 WHETHER THEY HAD VIEWS ABOUT COMPANIES OR
2 BUSINESSPERSONS WORKING IN ISRAEL. I MEAN, IF THEY DO,
3 THEN WE WILL HEAR IT AT SIDEBAR.

4 THANK YOU, YOUR HONOR.

5 THE COURT: DO YOU HAVE -- BEFORE I GO TO
6 YOU DO YOU HAVE ANY OTHER QUESTIONS YOU HAD ON VOIR
7 DIRE?

8 MR. RAPPOPORT: NO, YOUR HONOR.

9 THE COURT: ALL RIGHT. WE CAN GET IT
10 DONE THEN BEFORE THE SENTENCING. GO AHEAD.

11 MS. MATTIACCI: IN REGARDS TO THE VOIR
12 DIRE, WHEN THAT MOTION WAS FILED AND THEN DEFENSE
13 COUNSEL DID NOT CONTEST IT, WE WERE CONCERNED ABOUT THE
14 ARGUMENT BEING MADE THAT THE AMERICANS WERE ANTI-SEM- --

15 THE COURT: ANTI-SEMITIC.

16 MS. MATTIACCI: -- HAD ANTI-SEMITIC
17 VIEWS, AND WE JUST DIDN'T WANT THAT ARGUMENT BEING MADE.

18 I DO HAVE A CONCERN IN TERMS OF VOIR
19 DIRE. I THINK IT IS AN APPROPRIATE AREA TO INQUIRE
20 WHETHER ANYBODY HAS STRONG VIEWS AS TO AMERICAN-ISRAELI
21 RELATIONS BECAUSE SINCE THAT TIME, THERE HAS BEEN A
22 TRAGEDY IN PITTSBURGH WHERE THERE HAS BEEN --

23 THE COURT: THAT'S A -- THAT'S A RELIGION
24 ISSUE, THOUGH.

25 MS. MATTIACCI: IT IS A RELIGION, BUT I

1 THINK MOST PEOPLE -- OR COMMONLY PEOPLE SORT OF CONFUSE
2 OR COMINGLE THE ISSUE OF JEWISH RELIGION AND ISRAELIS.

3 THE COURT: I AM NOT GOING TO DO THAT.
4 HERE'S THE -- HERE'S THE --

5 MS. MATTIACCI: I AM NOT GOING TO GO
6 THERE FOR TRIAL.

7 THE COURT: I AM NOT GOING TO ASK THE
8 QUESTION. THAT IS A -- WE WOULD BE HERE FOR TWO DAYS
9 TRYING TO FIGURE OUT THAT ISSUE.

10 I THINK I AM GOING TO SAY TO THEM, ALONG
11 THE LINES OF IT'S AN ISRAELI COMPANY, THIS IS NOT --
12 THIS CASE HAS NOTHING TO DO WITH RELIGION.

13 MS. MATTIACCI: OKAY.

14 THE COURT: OKAY. IF I -- RATHER THAN
15 ASKING SOMEBODY.

16 NOW, IF SOMEBODY COMES UP TO SIDEBAR AND
17 SAYS, I HAVE VIEWS ABOUT BUSINESSPERSONS LIVING IN
18 ISRAEL, AND THEY COME TO SIDEBAR AND SAY, WHAT IS YOUR
19 VIEW, AND THEY SAY SOMETHING THAT WE ALL PERCEIVE AS
20 ANTI-SEMITIC, THEN WE WILL DEAL WITH IT AT SIDEBAR.

21 MR. RAPPOPORT: HOPEFULLY THAT WON'T
22 HAPPEN.

23 THE COURT: THAT'S RIGHT. I AM GOING TO
24 BE -- I AM GOING TO BE VERY DIRECT WITH THIS PANEL ABOUT
25 THAT. BUT, YES.

1 MS. MATTIACCI: I DEFINITELY THINK IT
2 WOULD BE HELPFUL, YOUR HONOR, IF COMING FROM YOU, YOU
3 MAKE THE DISTINCTION BETWEEN JEWISH RELIGION --

4 THE COURT: I WILL.

5 MS. MATTIACCI: -- THAT IT HAS NOTHING TO
6 DO WITH THAT --

7 THE COURT: I WILL.

8 MS. MATTIACCI: -- IT'S ISRAELI
9 NATIONALISM.

10 THE COURT: I AM.

11 MS. MATTIACCI: OKAY.

12 THE COURT: I AM. I AM.

13 WE HAVE A CASE GOING ON IN THIS COURTROOM
14 RIGHT NOW, A 12-WEEK TRIAL, WHERE THE DEFENDANTS ARE ALL
15 MUSLIM, AND THE VOIR DIRE IN THAT CASE WENT SIDEWAYS FOR
16 THAT VERY REASON, THAT PEOPLE THINK BECAUSE YOU LIVE IN
17 A COUNTRY THAT IS PREDOMINANTLY A MUSLIM RELIGION, THAT
18 YOU ARE MUSLIM. THAT -- PEOPLE -- YOU MAKE -- I KNOW
19 PEOPLE IN ISRAEL THAT AREN'T JEWISH. I AM SURE WE ALL
20 DO, SO -- AREN'T JEWISH FAITH. SO I'M NOT -- I'M GOING
21 TO MAKE THAT DISTINCTION CLEAR TO THEM --

22 MS. MATTIACCI: THANK YOU.

23 THE COURT: -- FOR ALL OF OUR BENEFITS, I
24 THINK.

25 MR. RAPPOPORT, YOU THINK YOUR CLIENT

1 WOULD CERTAINLY --

2 MR. RAPPOPORT: I AGREE. I DIDN'T
3 CONTEST THE MOTION IN LIMINE.

4 THE COURT: YEAH, I -- FOR THE SAME --
5 THAT'S WHY I WAS THINKING PROBABLY YOU WERE. I WASN'T
6 REALLY THINKING THE OTHER WAY BUT --

7 MS. MATTIACCI: I WASN'T UNTIL RECENTLY,
8 YOUR HONOR.

9 THE COURT: YEAH, I WASN'T THINKING ABOUT
10 THE OTHER WAY.

11 MR. RAPPOPORT: HAD THEY CALLED ME AND
12 ASKED ME IF I HAD INTENDED TO PRESENT THAT AS EVIDENCE,
13 I WOULD HAVE SAID NO, BUT LAWYERS DON'T DO THAT
14 SOMETIMES.

15 THE COURT: WELL, THAT'S OKAY.

16 ALL RIGHT. SO WHAT ELSE DO YOU HAVE,
17 MR. RAPPOPORT?

18 MS. MATTIACCI: I JUST HAVE ONE OTHER
19 ISSUE.

20 THE COURT: I WANT TO RUN SOME NAME -- I
21 WANT TO RUN SOME NAME PRONUNCIATIONS BY YOU-ALL BECAUSE
22 I DON'T WANT TO EMBARRASS ANYONE IN FRONT OF THEM. SO
23 I'LL RUN SOME NAME PRONUNCIATIONS BY YOU-ALL.

24 IS IT MATTIACCI (PRONOUNCING)?

25 MS. MATTIACCI: MATTIACCI.

1 THE COURT: MATTIACCI. OKAY.

2 MS. MATTIACCI: THAT'S OKAY.

3 THE COURT: NO, NO. I WANT TO GET IT
4 RIGHT.

5 MS. MATTIACCI: YOUR HONOR, YOU GRANTED A
6 MOTION IN LIMINE BY THE DEFENDANT TO PRECLUDE ANY
7 TESTIMONY OR ARGUMENT CONCERNING PERFORMANCE
8 DEFICIENCIES OF NIR AHARONI, THE SUPERVISOR IN THIS
9 CASE.

10 THE COURT: RIGHT.

11 MS. MATTIACCI: AND WE HAVE TAKEN GREAT
12 PAINS TO AGREE TO REDACTIONS IN MANY DOCUMENTS IN WHICH
13 THERE WERE CRITICISMS ABOUT MR. AHARONI BEING
14 NONRESPONSIVE TO HEAD COUNT REQUESTS AND THINGS OF THAT
15 NATURE, BUT THERE ARE SOME NON-RESPONSIVENESS ISSUES
16 CONCERNING MR. AHARONI THAT ARE DIRECTLY RELATED TO
17 ISSUES IN THIS CASE THAT CAN'T BE PULLED OUT.

18 FOR EXAMPLE, MR. MIDDLEBROOKS WAS
19 SUPPOSED TO RECEIVE A MID-YEAR REVIEW IN JULY 2015, AND
20 HE DIDN'T RECEIVE IT UNTIL OCTOBER 2015. AND MR. --

21 THE COURT: WELL, THAT'S NOT -- IS
22 THAT -- DID I KEEP THAT OUT?

23 MR. RAPPOPORT: NO, THAT'S IN. I DON'T
24 THINK THAT'S A PERFORMANCE ISSUE.

25 THE COURT: OKAY.

1 MS. MATTIACCI: I WANTED TO MAKE SURE
2 THAT IT WAS ALL CRITICISMS OF MR. AHARONI.

3 THE COURT: NO, NO, IT'S NOT -- NO, IT'S
4 NOT. IT'S CRITICISMS OF MR. AHARONI THAT HAVE TO DO --
5 NO, THAT WOULD NOT BE ONE OF THEM. I, IN MY MIND, KNEW
6 WHAT I WAS DOING, YEAH.

7 MS. MATTIACCI: OKAY. MORE OF HIS
8 MANAGERIAL --

9 THE COURT: A THIRD PERSON'S VIEW OF HIS
10 MANAGERIAL SKILLS.

11 MS. MATTIACCI: OKAY, HIS MANAGERIAL --

12 THE COURT: WHAT HE DID RELATIVE TO
13 MR. MIDDLEBROOKS IN GETTING BACK TO HIM ON THINGS LIKE
14 THAT. THAT'S -- I DON'T THINK MR. RAPPOPORT OPPOSED
15 THAT. I THINK THAT'S CLEARLY AN ISSUE.

16 MS. MATTIACCI: OKAY.

17 THE COURT: WHAT HAPPENED BETWEEN THE TWO
18 GENTLEMEN IS -- IS AT ISSUE. WHAT HAPPENED WITH HIS
19 REPUTATION OR WHAT HE DID IN A PERFORMANCE MECHANISM IS
20 NOT A MOMENT IN THIS TRIAL.

21 MS. MATTIACCI: OKAY. THANK YOU, YOUR
22 HONOR.

23 THE COURT: OKAY. ALL RIGHT. LET ME RUN
24 A COUPLE NAMES, JUST SO I AM CLEAR.

25 CAN SOMEBODY PRONOUNCE MAY -- MAYBE -- HE

1 IS YOUR CLIENT, MR. RAPPOPORT. IS IT -- HOW DO YOU
2 PRONOUNCE -- IS IT STROKLER (PRONOUNCING) OR STROUCHLER?

3 MR. RAPPOPORT: SHTROUCHLER.

4 THE COURT: SHTROUCHLER.

5 MR. RAPPOPORT: AS IF THE H WAS SILENT,
6 YOUR HONOR.

7 THE COURT: OKAY. THANK YOU. ALL RIGHT.

8 AND SHE IS IN ISRAEL?

9 MR. RAPPOPORT: SHE IS NO LONGER A TEVA
10 EMPLOYEE, BUT SHE LIVES IN ISRAEL, YES.

11 THE COURT: OKAY.

12 MR. RAPPOPORT: HER FIRST NAME IS ILANIT.

13 THE COURT: ILANIT. OKAY, THANK YOU.

14 ONE OF THE -- IS SHIMRIT SHEMTOV? I

15 KNOW --

16 MR. RAPPOPORT: SHIMRIT SHEMTOV, YOUR
17 HONOR.

18 THE COURT: IS SHIMRIT SHEMTOV, WHO WE'VE
19 MENTIONED --

20 MR. RAPPOPORT: OH, YES.

21 THE COURT: -- IN ISRAEL?

22 MR. RAPPOPORT: YES. NO LONGER EMPLOYED.

23 THE COURT: OKAY. RONI?

24 MR. RAPPOPORT: RONI KAFRE.

25 THE COURT: I APOLOGIZE FOR MY

1 ANGLICIZATION OF THE NAMES.

2 MR. RAPPOPORT: NO, PLEASE DON'T.

3 THE COURT: OKAY. AND ISRAEL -- WHERE?

4 MR. RAPPOPORT: IN ISRAEL, YES.

5 THE COURT: OKAY. AND A FORMER EMPLOYEE?

6 MR. RAPPOPORT: HE IS CURRENT.

7 THE COURT: I AM NOT GOING TO MENTION

8 ANYBODY WITH THE NAMES. OKAY.

9 ANY OTHER NAME, AS YOU WENT HOME THE
10 OTHER DAY, YOU SAID, OH, I MEANT TO ASK THE JUDGE ABOUT
11 THIS NAME?

12 MR. RAPPOPORT: NO, BUT I DO WANT TO SAY
13 THIS, THAT I WAS GOING TO SAY THIS TO THE JURY. I DON'T
14 THINK YOU SHOULD HAVE A PROBLEM WITH THIS. I INTEND TO
15 REFER TO NIR AS NIR AS OPPOSED TO MR. AHARONI.

16 THE COURT: AS LONG AS THEY KNOW -- AS
17 LONG AS THE CITIZENS KNOW.

18 MR. RAPPOPORT: I WAS GOING TO TELL THEM
19 IN THE OPENING.

20 THE COURT: I DON'T HAVE A PROBLEM WITH
21 THAT. YOU CAN CALL THE PLAINTIFF STEVE, FOR THAT
22 MATTER. YOU KNOW WHAT I MEAN? AS LONG AS THE JURORS
23 KNOW WHAT YOU-ALL ARE TALKING ABOUT.

24 SO ARE THERE ANY OTHER NAMES THAT YOU
25 THOUGHT -- YOU WENT BACK AND READ DOCUMENTS, PREPARED

1 FOR TRIAL? ANYTHING ELSE?

2 (NO RESPONSE.)

3 THE COURT: NO? OKAY.

4 MS. MATTIACCI: YOUR HONOR, ONE, I DON'T
5 KNOW IF IT'S ON THE LIST, BUT IF MR. STEVE CONSOLE
6 WOULD -- WANTED TO JOIN US FOR JUST JURY SELECTION, BUT
7 HE IS DOWN, I BELIEVE, WITH THE --

8 THE COURT: HE IS BEHIND YOU. HE'S
9 WAVING. HE'S EXCITED. HE LOVES JURY SELECTION.

10 MS. MATTIACCI: SO I WANTED TO ADD HIS
11 NAME TO THE LIST.

12 THE COURT: --SO HE IS GOING TO COME UP
13 FRONT TO SIT WITH YOU?

14 MS. MATTIACCI: YES. HE IS GOING TO SIT
15 RIGHT HERE.

16 THE COURT: I HAVE CAREN. SHE IS NOT
17 HERE TODAY?

18 MS. MATTIACCI: OH, YES. CAREN HAD A
19 PERSONAL EMERGENCY.

20 THE COURT: OKAY. YOU WERE ON THE
21 PLEADING TO START, THEN.

22 MR. CONSOLE: NOT IN THE VERY BEGINNING.
23 ABOUT A MONTH OR TWO AGO.

24 MR. RAPPOPORT: TWO CONSOLES ON THE CASE,
25 YOUR HONOR, AND ONE COUNSEL.

1 THE COURT: THAT'S ALL RIGHT.

2 MR. RAPPOPORT: WE ARE GOING TO FLIP OUR
3 SEATS AROUND IF THAT'S OKAY, YOUR HONOR.

4 THE COURT: YES, PLEASE, DO THAT.

5 (DISCUSSION OFF THE RECORD.)

6 MR. RAPPOPORT: YOUR HONOR, I DID NOT
7 INTRODUCE YOU TO TOM MCDONOUGH. HE'S IN-HOUSE AT TEVA.
8 HE WILL BE SITTING AT COUNSEL TABLE, YOUR HONOR.

9 THE COURT: SO HE WILL COME UP TO BE
10 INTRODUCED TO THE JURY?

11 MR. RAPPOPORT: YES, YOUR HONOR.

12 THE COURT: COUNSEL, LET ME ASK YOU WHILE
13 YOU ARE WAITING -- AND THIS GOES TO YOU, LAURA. I SAW
14 NO VERDICT SLIP ON THE PHRA. ARE YOU JUST FOLDING IT
15 IN?

16 MS. MATTIACCI: THAT'S A GOOD QUESTION,
17 YOUR HONOR. IT'S INCORPORATED INTO THE MOTIVATING
18 FACTOR INSTRUCTION.

19 THE COURT: AGAIN, I'VE GOT TO ASK A
20 SEPARATE QUESTION. ARE YOU --

21 MS. MATTIACCI: I'M SORRY. WHAT WAS
22 THAT?

23 THE COURT: DO I HAVE TO ASK A SEPARATE
24 SET OF INTERROGATORIES BASED ON THE PHRA?

25 MS. MATTIACCI: NO, BECAUSE THE LANGUAGE

1 THAT WE HAVE AND THE MOTIVATING FACTOR INSTRUCTION
2 COVERS THE PHRA ISSUE.

3 THE COURT: IF YOU WIN, I ENTER A
4 JUDGMENT. THE JUDGMENT IS BOTH UNDER FEDERAL AND STATE
5 LAW?

6 MS. MATTIACCI: IT WOULD BE -- YES, IT
7 WOULD BE UNDER FEDERAL AND STATE LAW.

8 THE COURT: ARE THE DAMAGES THE SAME?

9 MS. MATTIACCI: IT DEPENDS ON HOW THEY
10 ANSWER. IF THEY SAY YES TO THE MOTIVATING BUT NO TO THE
11 SAME DECISION ANYWAY, THE DAMAGES WOULD BE DIFFERENT
12 UNDER THE FEDERAL LAW BECAUSE WE WOULD NOT GET
13 COMPENSATORY DAMAGES.

14 THE COURT: SO WE NEED TO HAVE A SEPARATE
15 QUESTIONING, RIGHT?

16 MS. MATTIACCI: YOU WOULD BE ASKING THE
17 SAME QUESTION.

18 THE COURT: BUT DON'T I NEED TO HAVE THE
19 DECISION TREE GO THAT WAY IF THEY SAY NO?

20 MS. MATTIACCI: IF THEY SAY --

21 THE COURT: IS IT ALL BACK -- IS IT ALL
22 TITLE VII?

23 MS. MATTIACCI: ON THE MOTIVATING FACTOR
24 IT IS ALL TITLE VII.

25 THE COURT: SO PHRA IS ALL ON TITLE VII?

1 MS. MATTIACCI: THE STANDARDS ARE THE
2 SAME IN TERMS OF --

3 THE COURT: SO I WILL DO THE DAMAGES
4 ANYWAY. MY POINT IS, WHAT ABOUT THE ADVISORY NUMBER FOR
5 THE JURY? HOW WOULD THEY DECIDE THAT IF THEY DECIDE --
6 IF THEY GO THE WAY -- IF THEY DECIDE NOT TO ALLOW THE
7 TITLE VII SCOPE?

8 MS. MATTIACCI: SO IF THEY SAY NO TO
9 MOTIVATING FACTOR?

10 THE COURT: RIGHT.

11 MS. MATTIACCI: THEN I DON'T THINK THAT
12 WE WOULD GET THE COMPENSATORY DAMAGES BECAUSE THEY HAVE
13 SAID NO.

14 THE COURT: BECAUSE YOU WOULD NOT HAVE
15 MOTIVATING --

16 MS. MATTIACCI: RIGHT, OR DETERMINATIVE.

17 THE COURT: OKAY. ALL RIGHT. SO WE WILL
18 DEAL WITH IT AT THE CHARGE. I JUST WANTED TO UNDERSTAND
19 WHAT YOU ARE DOING.

20 MS. MATTIACCI: OKAY. THANK YOU, YOUR
21 HONOR.

22 THE COURT: IS THERE ANY DOCUMENT THAT IS
23 BEING SHOWN TO THE JURY DURING OPENINGS?

24 MS. MATTIACCI: WE HAVE A ORG CHART THAT
25 IS BLOWN UP BUT WE'VE AGREED WITH DEFENSE COUNSEL AND

1 THEY HAVE AGREED ON IT.

2 MR. RAPPOPORT: WE HAVE STIPULATED TO IT,
3 YOUR HONOR.

4 THE COURT: OKAY, FINE.

5 MR. RAPPOPORT: WE WILL WAIT FOR A COUPLE
6 OF -- YOUR HONOR, WE'RE NOT GOING TO FINISH THIS CASE ON
7 FRIDAY.

8 THE COURT: I AM IN OREGON ON MONDAY.

9 MR. RAPPOPORT: YOU'RE IN ARGUMENT?

10 THE COURT: OREGON.

11 MR. RAPPOPORT: I JUST CAME BACK FROM
12 OREGON.

13 THE COURT: I'M IN KLAMATH FALLS ON
14 MONDAY.

15 MR. RAPPOPORT: I WAS THERE.

16 THE COURT: I AM IN KLAMATH FALLS ON
17 MONDAY. SO I DON'T KNOW WHAT WE ARE GOING TO DO. THINK
18 ABOUT IT. I AM NOT HERE UNTIL EARLY DECEMBER.

19 MR. RAPPOPORT: I WILL TRY, I AM GOING TO
20 BE GREAT ABOUT IT, I KNEW ALL ALONG THERE WOULD BE
21 ISSUES AND I TOLD YOU, RIGHT? WHEN WE SPOKE THE FIRST
22 TIME.

23 THE COURT: OKAY. THANK YOU.

24 (BREAK TAKEN.)

25 (VOIR DIRE OCCURS OFF THE RECORD.)

1 (SIDEBAR OCCURS.)

2 THE COURT: SO FIRST, FOR THE PLAINTIFF,
3 IS THERE ANY QUESTION GENERALLY THAT YOU WOULD LIKE ME
4 TO ASK THAT I DID NOT COVER?

5 MS. MATTIACCI: I THINK CAN WE HAVE SOME
6 FOLLOW-UP ON, LIKE, FOR INSTANCE --

7 THE COURT: I AM TALKING ABOUT IN
8 GENERAL.

9 MS. MATTIACCI: IN GENERAL, NO.

10 THE COURT: ANY QUESTION OF A GENERAL
11 NATURE YOU WOULD LIKE ME TO ASK?

12 MR. RAPPOPORT: YES, ASSOCIATIONS OR
13 RELATIONSHIPS WITH TEVA.

14 THE COURT: GENERALLY. GENERALLY.

15 MR. RAPPOPORT: AS OPPOSED TO
16 SPECIFICALLY BY NUMBER?

17 THE COURT: YES.

18 MR. RAPPOPORT: IN OTHER WORDS, WAS THERE
19 ANYTHING YOU MISSED WITH REGARD TO WHAT YOU HAVE ALREADY
20 ASKED, LIKE HAS ANYONE FILED A GRIEVANCE? BUT I WOULD
21 HAVE LIKED FOR YOU TO SAY HAS ANYONE FILED A CHARGE OR A
22 COMPLAINT OR HAS ANYONE IN THEIR FAMILY OR FRIENDS FILED
23 A COMPLAINT?

24 THE COURT: I ASKED IF ANYBODY HAS FILED
25 A LAWSUIT AND THEY SAID NO. THAT'S COVERED.

1 NOW WE ARE GOING TO DEAL WITH THE
2 SERIATIM, STARTING WITH YOU AND GO TO LARRY. THE WAY I
3 DO THIS IS I ASK THE QUESTIONS SO YOU DON'T PUT THEM ON
4 THE SPOT. SO GOING IN ORDER, WHO WOULD YOU LIKE TO
5 BRING UP ON QUESTIONS?

6 MR. STEVE CONSOLE: NUMBER TWO, IT IS
7 UNCLEAR TO ME -- I THOUGHT NUMBER TWO RAISED HER HAND
8 ABOUT BEING FAIR AND IMPARTIAL.

9 THE COURT: WHAT ELSE DO YOU HAVE FOR
10 HER?

11 MR. STEVE CONSOLE: NOTHING ELSE.

12 MR. RAPPOPORT: SHE KNEW TEVA. SHE
13 WORKED IN A HOSTILE WORK ENVIRONMENT.

14 THE COURT: IT WAS SOMETHING ABOUT
15 HOSTILE WORK ENVIRONMENT, OTHER THAN GENDER. MAYBE WE
16 CAN FIND THAT OUT. OBVIOUSLY FOR ME, IT'S INTERESTING.

17 MR. RAPPOPORT: I UNDERSTAND YOU WANT TO
18 BRING THEM UP ONCE?

19 MR. STEVE CONSOLE: THE ONLY QUESTION SHE
20 ANSWERED WAS WORK WITH TEVA. I THOUGHT SHE SAID THAT.

21 THE COURT: WE HAVE THAT.

22 ANYTHING ELSE ON TWO?

23 BRING UP TWO.

24 THE DEPUTY CLERK: JUROR NUMBER TWO, COME
25 ON UP.

1 BY THE COURT:

2 Q. HELLO, MA'AM. COME ON IN. THANK YOU FOR BEING
3 HERE.

4 I WANT TO ASK YOU A QUESTION ON
5 FOLLOW-UP. I THINK YOU RAISED YOUR HAND AS TO WHETHER
6 YOU HAVE ANY REASON YOU CANNOT BE FAIR AND IMPARTIAL. I
7 DIDN'T WANT TO EMBARRASS YOU. WHAT ARE YOUR THOUGHTS ON
8 THAT?

9 A. I CURRENTLY WORK FOR A PHARMACEUTICAL COMPANY,
10 ASTRA ZENECA. I KNOW A LOT OF PEOPLE THAT WORK AT TEVA.
11 I GUESS IT'S MY OPINION -- I HAVE HAD EMPLOYEES WHO HAVE
12 NOT DONE A GOOD JOB AND THEY TRIED TO SAY, WELL, IT'S
13 BECAUSE YOU DON'T LIKE ME OR YOU DID THIS OR YOU DID
14 THAT. I FEEL LIKE EVERY TIME PEOPLE DO A POOR JOB, FOR
15 THE MOST PART, THEY TRY TO CLAIM DISCRIMINATION.

16 Q. HAVE YOU SEEN THAT IN YOUR JOB?

17 A. YES.

18 Q. ARE YOU A SUPERVISOR OF SOME SORT?

19 A. I AM CURRENTLY. I AM AN INDIVIDUAL CONTRIBUTOR.
20 BUT I HAVE MANAGED PEOPLE FOR YEARS. AND I HAVE HAD
21 SEVERAL PEOPLE THAT ARE POOR PERFORMANCE EMPLOYEES AND A
22 LOT OF TIMES THAT IS WHAT THEY USUALLY ALWAYS DO, THEY
23 TRY TO GET MONEY.

24 Q. HAVE YOU HEARD IT BASED ON AGE?

25 A. PEOPLE SAY IT, LIKE, IN OUR WORK. THAT'S WHY I

1 DIDN'T WANT TO RAISE MY HAND FOR HOSTILE. ALL
2 INDUSTRIES -- EVERYBODY IS GOING THROUGH THE SAME THING,
3 PRETTY MUCH. EVERYBODY IS ALWAYS -- SO A LOT OF PEOPLE
4 SAY TO ME, IT'S OLD PEOPLE THAT THEY TRY TO GET RID OF.
5 I DON'T KNOW ABOUT LAWSUITS, PER SE, BUT PEOPLE SAY IT.

6 Q. A LITTLE BIT DIFFERENT. DO YOU HAVE ANY ROLE IN
7 THOSE DECISIONS?

8 A. NOT ANYMORE.

9 Q. DID YOU?

10 A. TERMINATING PEOPLE?

11 Q. SURE.

12 A. IF THEY WORKED FOR ME, YEAH.

13 Q. HOW LONG WERE YOU EMPLOYED?

14 A. ORIGINALLY, ONE OF THE GUYS, HE WAS THE OLDEST
15 GUY IN THE GROUP, BUT HE WAS NOT DOING A GOOD JOB. AND
16 I HAD TO LET HIM GO, BUT IT WORKED OUT FOR HIM TO RETIRE
17 AND STILL...

18 Q. DID THAT END UP IN A LAWSUIT OR GRIEVANCE?

19 A. NO.

20 Q. LIKE A DISCRIMINATION CLAIM?

21 A. NO.

22 Q. DID YOU ALSO RAISE YOUR HAND ABOUT HOSTILE WORK
23 ENVIRONMENT, IS THAT WHAT YOU WERE REFERRING TO?

24 A. YES, THAT'S WHY I SAID IT WASN'T DUE TO AGE,
25 JUST EVERY YEAR THEY ARE CUTTING PEOPLE LEFT AND RIGHT.

1 Q. DO YOU HAVE ANY RELATIONSHIP WITH TEVA YOURSELF,
2 OTHER THAN YOU KNOW WHAT THEY ARE?

3 A. I HAVE A LOT FRIENDS THAT WORK THERE. EVERYBODY
4 THAT WORKS IN PHARMA WORKS -- I DIDN'T RECOGNIZE ANY OF
5 THE NAMES YOU MENTIONED.

6 Q. YOU DON'T RECOGNIZE MR. MIDDLEBROOKS' NAME?

7 A. NO. HE LOOKED FAMILIAR, ONLY BECAUSE I LIVED IN
8 WEST GOSHEN FOR A WHILE, BUT I DON'T KNOW HIM.

9 THE COURT: ANY QUESTIONS FOR JUROR
10 NUMBER TWO?

11 BY MS. MATTIACCI:

12 Q. SO IN TERMS OF YOUR ABILITY TO BE FAIR AND
13 IMPARTIAL, DO YOU HAVE A BIAS?

14 A. I DO BECAUSE OF THE FACT I DON'T KNOW -- MAYBE
15 HE IS -- I FELT LIKE POTENTIALLY -- YOU KNOW, I DON'T
16 KNOW. I DON'T KNOW FOR SURE, BUT, YOU KNOW, I FEEL
17 LIKE, YOU KNOW, A LOT OF TIMES THIS IS WHAT HAPPENS.

18 Q. RIGHT. BASED UPON THAT EXPERIENCE THAT YOU HAVE
19 HAD, WOULD IT BE DIFFICULT FOR YOU TO BE FAIR AND
20 IMPARTIAL?

21 A. MAYBE.

22 THE COURT: DEFENSE, ANY QUESTIONS?

23 MR. RAPPOPORT: NO.

24 THE COURT: OKAY. THANK YOU, MA'AM, YOU
25 MAY BE SEATED.

1 THE WITNESS: OKAY.

2 THE COURT: THE NEXT PERSON YOU WOULD
3 LIKE TO BRING UP? YOU WILL DO CAUSE AT THE END.

4 MS. MATTIACCI: OKAY.

5 THE COURT: BEFORE WE GO ON, DID YOU WANT
6 TO ASK QUESTIONS OF NUMBER ONE?

7 MR. RAPPOPORT: NO, HE DIDN'T RAISE HIS
8 HAND ONCE.

9 THE COURT: THE NEXT PERSON WHO YOU WOULD
10 LIKE TO QUESTION -- KEEP GOING, YOU ARE NEXT.

11 MS. MATTIACCI: NUMBER THREE SAID HE
12 WORKED AT TEVA OR KNEW PEOPLE AT TEVA.

13 THE COURT: ANYTHING ELSE ON THREE?

14 MR. RAPPOPORT: YEAH. THREE SAID HE
15 HAD -- I THOUGHT YOUR QUESTION WAS, DID YOU WORK IN A
16 HOSTILE WORK ENVIRONMENT OR MAYBE I DON'T RECALL IF IT
17 WAS -- DID YOU WORK IN IT OR OCCASIONS THAT PEOPLE MADE
18 THAT REFERENCE. THAT WAS THREE.

19 THE COURT: OKAY.

20 MR. RAPPOPORT: AND I DIDN'T HAVE
21 ANYTHING ELSE FOR THREE. DID YOU?

22 MR. MCDONOUGH: NO.

23 MR. RAPPOPORT: THAT WOULD BE IT.

24 THE COURT: HE KNOWS SOMEBODY AT TEVA.
25 HE MAY HAVE SOME INVOLVEMENT WITH HOSTILE WORK

1 ENVIRONMENT.

2 MR. STEVE CONSOLE: I THINK HE SAID HE
3 WAS TERMINATED AS AN EMPLOYEE.

4 THE COURT: OKAY. NUMBER THREE.

5 THE DEPUTY CLERK: JUROR NUMBER THREE.
6 BY THE COURT:

7 Q. HELLO, SIR. COME ON IN. THANK YOU FOR BEING
8 HERE TODAY.

9 YOU HAD RAISED YOUR HAND AND I WANT TO
10 FOLLOW UP. DO YOU KNOW PEOPLE AT TEVA? DO YOU HAVE ANY
11 INVOLVEMENT WITH TEVA?

12 A. I KNOW LOTS OF PEOPLE BECAUSE I NOW WORK AT
13 ALLIANCE PHARMA. WE HAVE A BUSINESS, IN THE MILLION
14 DOLLARS PER YEAR SO WE HAVE MANY, MANY STUDIES ALMOST
15 EVERY DAY, U.S. STUDIES.

16 Q. IS THERE ANYTHING ABOUT TEVA THAT WOULD MAKE YOU
17 UNABLE TO BE FAIR OR IMPARTIAL? DO YOU HAVE ANY VIEW
18 ABOUT TEVA?

19 A. NO.

20 Q. DO YOU KNOW ANY OF THE PEOPLE THAT I TALKED
21 ABOUT TODAY?

22 A. NO.

23 Q. YOU HAD TALKED A LITTLE BIT ABOUT BEING INVOLVED
24 IN TERMINATING PEOPLE, DISCIPLINING PEOPLE?

25 A. YEAH, I AM THE DIRECTOR AND MANAGER FOR THE

1 THREE DEPARTMENTS IN ALLIANCE PHARMA. EVERY YEAR WE DO
2 BASED ON THE PERFORMANCE OF THEM TO TERMINATE PEOPLE.

3 Q. HAS ANYONE CLAIMED YOU WERE WORKING IN A
4 DISCRIMINATORY MANNER OR HOSTILE WORK ENVIRONMENT?

5 A. NOT YET.

6 MR. RAPPOPORT: GREAT ANSWER.

7 BY THE COURT:

8 Q. IS THERE ANYTHING ABOUT THE FACT THAT YOU
9 WORK IN THIS INDUSTRY YOU THINK YOU COULD NOT BE FAIR
10 AND IMPARTIAL HERE?

11 A. IT'S HARD TO SAY. YEAH, BECAUSE IN THE ALLIANCE
12 PHARMA, I AM THINKING. BUT IN THE J&J, I WORKED OVER AT
13 J&J, FOR OVER TEN YEARS. AND FOR MY GROUP ENVIRONMENT,
14 IT'S TOXIC AND HORRIBLE.

15 Q. IN YOUR DEPARTMENT?

16 A. YES.

17 MR. RAPPOPORT: AT J&J.

18 THE COURT:

19 Q. BUT IS THERE ANYTHING ABOUT MY QUESTION -- I
20 KNOW IT'S HARD TO SAY. SO MY CONCERN IS, CAN YOU BE
21 FAIR AND IMPARTIAL TO THESE PEOPLE, MR. MIDDLEBROOKS AND
22 THE PEOPLE YOU ARE GOING TO HEAR FROM FROM TEVA, CAN YOU
23 BE FAIR AND IMPARTIAL TO THEM?

24 A. YES, I THINK SO.

25 Q. IS THERE ANYTHING ABOUT YOUR EXPERIENCE WITH J&J

1 OR SOMEONE ELSE THAT WOULD COVER YOUR VIEW IN THAT
2 POINT?

3 A. AT LEAST A LITTLE BIT.

4 Q. ON WHAT ASPECT?

5 A. FOR LIKE THEIR TREATMENT OF EMPLOYEES AND FAIR
6 AGAINST THE AGE AND RACE.

7 Q. HAVE YOU EVER HEARD ABOUT THE AGE, NOT RACE, AGE
8 OR NATIONAL ORIGIN?

9 A. YES.

10 Q. YOU HAVE?

11 A. YES.

12 Q. HAVE YOU EVER MADE THAT ISSUE?

13 A. I AM THE VICTIM.

14 Q. YOU BELIEVE YOU HAVE BEEN DISCRIMINATED AGAINST?

15 A. YES. I FILED A COUPLE OF TIMES TO THE J&J
16 HEADQUARTERS TO THE HR REGARDING THE DISCRIMINATION FOR
17 THE RACE.

18 Q. AND YOU MADE THESE CLAIMS. AND WHEN DID YOU
19 MAKE THOSE CLAIMS?

20 A. END OF 2014.

21 Q. OKAY. AND WHAT WAS THE RESOLUTION OF THOSE
22 CLAIMS?

23 A. NO RESOLUTION. THEY JUST TRIED TO PUT OUR GROUP
24 IN WITH THE ASIAN PEOPLE ON THE PERFORMANCE, BUT WE
25 FOUND A NEW JOB AND LEFT.

1 THE COURT: PLAINTIFF, FOLLOW-UP?

2 MS. MATTIACCI: NO.

3 THE COURT: DEFENSE?

4 BY MR. RAPPOPORT:

5 Q. SO WHEN YOU ANSWERED THE JUDGE'S QUESTION, WHEN
6 YOU RAISED YOUR HAND ABOUT THE HOSTILE WORK ENVIRONMENT,
7 WAS THAT AT J&J?

8 A. YES.

9 Q. OKAY. AND YOU BELIEVE YOU WERE A VICTIM OF A
10 HOSTILE WORK ENVIRONMENT?

11 A. YES.

12 Q. AND YOU COMPLAINED TO?

13 A. HR.

14 Q. AND WILL THAT EXPERIENCE HAVE ANY INFLUENCE WITH
15 REGARD TO HOW YOU WOULD HEAR TODAY'S EVIDENCE OR THIS
16 WEEK'S EVIDENCE?

17 A. NO.

18 MR. RAPPOPORT: OKAY. NOTHING FURTHER.

19 THE COURT: THANK YOU, SIR. WE WILL GET
20 BACK TO YOU.

21 THE COURT: NEXT PERSON YOU WOULD LIKE TO
22 TALK TO.

23 MR. STEVE CONSOLE: FOUR, YOUR HONOR, WAS
24 AGAIN, SHE RAISED HER HAND THAT SHE COULD NOT BE FAIR.

25 MR. RAPPOPORT: SHE DID.

1 MR. STEVE CONSOLE: I DON'T KNOW IF YOUR
2 HONOR WANTS FOLLOW UP ON THAT OR IF THAT --

3 THE COURT: WE WILL ASK HER. I AM GOING
4 TO ASK HER WHY SHE WAS KIND OF TENTATIVE.

5 MR. RAPPOPORT: SHE RAISED HER HAND THE
6 FIRST TIME.

7 THE COURT: THE FIRST TIME. I WANT THE
8 RECORD CLEAR.

9 DO YOU HAVE ANYTHING FOR NUMBER FOUR, OR
10 JUST THAT QUESTION?

11 MR. RAPPOPORT: FOUR SAID SHE WORKED IN A
12 HOSTILE WORK ENVIRONMENT. IT WAS A HOSTILE WORK
13 ENVIRONMENT. OTHER THAN GENDER, I WOULD LIKE TO KNOW
14 MORE ABOUT THAT.

15 MS. MATTIACCI: SHE SAID AGE.

16 MR. STEVE CONSOLE: AND THAT SHE WORKED
17 IN HR.

18 THE COURT: AND AGE ISSUE.

19 FOUR.

20 THE DEPUTY CLERK: JUROR NUMBER FOUR.
21 COME UP.

22 BY THE COURT:

23 Q. THANK YOU FOR BEING HERE.

24 A. GOOD MORNING, YOUR HONOR.

25 Q. YOU HAD MENTIONED -- YOU RAISED YOUR HAND TO THE

1 QUESTION, YOU DIDN'T THINK YOU COULD BE FAIR AND
2 IMPARTIAL WHEN YOU HEARD WHAT I GAVE YOU. WHY IS THAT?

3 A. SO MY DAD HAS ACTUALLY WORKED FOR A COMPANY OVER
4 20 YEARS. IT WAS PRIVATE. IT WAS BOUGHT OUT BY A
5 PUBLIC COMPANY AND MY DAD IS ALWAYS COMPLAINING THAT HE
6 GOT DEMOTED BASED ON HIS AGE AND THE YOUNG GUYS COMING
7 IN AND TELLING HIM WHAT TO DO. AND I FELT THAT IT
8 SOUNDED KIND OF SIMILAR.

9 Q. WE HAVE NOT HEARD ANY FACTS. WHAT I SAY IS NOT
10 FACTS, BUT -- DO YOU LIVE WITH YOUR DAD?

11 A. NO.

12 Q. OKAY. IS THAT SUCH AN EXTENT THAT YOU THINK IT
13 WOULD AFFECT YOUR ABILITY TO HEAR MR. MIDDLEBROOKS'
14 CLAIMS?

15 A. NO, BUT I JUST WANTED YOU TO KNOW THAT BASED
16 ON --

17 Q. DO YOU THINK YOU CAN BE FAIR?

18 A. I THINK I CAN DEFINITELY HEAR THE FACTS.

19 Q. YOU ALSO MENTIONED ABOUT HOSTILE WORK
20 ENVIRONMENT. IS THAT SOMETHING INVOLVING YOU OR YOUR
21 DAD?

22 A. ME.

23 Q. TELL ME ABOUT THAT, GENERALLY.

24 A. MY PRINCIPAL --

25 Q. ARE YOU A TEACHER?

1 A. YEAH. SHE IS ALL OVER THE PLACE. I HAVE BEEN
2 PULLED INTO HER OFFICE, ASKED WHAT MY PLANS ARE FOR
3 HAVING BABIES BECAUSE SHE WANTS TO CREATE TEAMS FOR
4 DIFFERENT THINGS, AND HOW LONG AM I GOING TO BE OUT HERE
5 AND ON LEAVE, THINGS OF THAT NATURE.

6 Q. THAT MAY BE LIKE CERTAINLY GENDER
7 DISCRIMINATION. I RAISED THE QUESTION ABOUT AGE. WHEN
8 I SAW YOU RAISE YOUR HAND, I WAS INTERESTED BECAUSE IT'S
9 NOT BASED ON AGE FOR YOU, ANYWAY, NOR NATIONAL ORIGIN
10 FOR YOU.

11 HAS YOUR PRINCIPAL EVER RETALIATED
12 AGAINST YOU BECAUSE YOU COMPLAINED?

13 A. NO, NOT OFFICIALLY, BUT, YOU KNOW.

14 Q. DO YOU HARBOR ANY VIEW THAT SHE MIGHT?

15 A. WITH HER MOODS, PROBABLY.

16 Q. HAS SHE DONE THIS TO ANYBODY ELSE?

17 A. YES.

18 Q. RETALIATED AGAINST SOMEBODY IN THE SCHOOL?

19 A. YES.

20 Q. AND IT HAD TO DO WITH THE WORKPLACE, NOT THE
21 WEATHER?

22 A. CORRECT.

23 Q. YOU ALSO MENTIONED HOSTILE WORK ENVIRONMENT. IS
24 THAT WHAT YOU ARE REFERRING TO?

25 A. YES.

1 Q. RETALIATION AND --

2 A. YES.

3 Q. AND THAT'S WHERE YOU PRESENTLY WORK?

4 A. YES. I AM CURRENTLY OUT ON LEAVE. I HAVE A
5 FOUR-MONTH-OLD, WHICH IS ANOTHER KIND OF ISSUE. SO AS
6 LONG AS I CAN PUMP EVERY THREE HOURS.

7 Q. YOU CAN DO THAT.

8 THE COURT: PLAINTIFF, DO YOU HAVE
9 ANYTHING FURTHER?

10 MS. MATTIACCI: NO.

11 THE COURT: DEFENSE?

12 BY MR. RAPPOPORT:

13 Q. DID YOU BELIEVE THAT WHEN YOUR PRINCIPAL ASKED
14 YOU ABOUT WHETHER -- WHAT YOUR PLANS WERE WITH REGARD TO
15 GETTING PREGNANT OR RAISING A FAMILY, DID YOU BELIEVE
16 THAT WAS A DISCRIMINATION AGAINST YOU?

17 A. YES.

18 Q. OKAY. JUST THE QUESTION ITSELF?

19 A. THE QUESTION, YEAH. I MEAN, I AM FAIRLY SURE
20 THAT'S PROBABLY ILLEGAL.

21 Q. SO YOU HAVE SOME VIEWS THAT THOSE KINDS OF
22 INQUIRIES ARE ILLEGAL AND THOSE VIEWS INFLUENCE YOUR
23 ABILITY TO BE FAIR AND IMPARTIAL?

24 A. I THINK I CAN HEAR EVIDENCE AND BASE, YOU KNOW,
25 AN IDEA OFF OF EVIDENCE.

1 Q. OKAY. THANK YOU.

2 WHAT SCHOOL DO YOU TEACH AT?

3 THE WITNESS: NORRISTOWN.

4 THE COURT: I WOULD GIVE YOU THE LAW.

5 YOU JUST MADE A STATEMENT ABOUT THE LAW YOU THOUGHT WAS
6 DISCRIMINATION. YOU WOULD HAVE TO LISTEN TO WHAT I GIVE
7 YOU, THE LAW. DO YOU UNDERSTAND THAT INSTRUCTION?

8 A. YES.

9 MR. RAPPOPORT: HOW COME YOU DIDN'T BRING
10 YOUR BABY?

11 THE WITNESS: I HAVE A TWO-YEAR-OLD. I
12 DON'T THINK HE WOULD BE DOING GOOD IN THE ENVIRONMENT.

13 THE COURT: ALL RIGHT. NEXT PERSON YOU
14 WOULD LIKE TO TALK TO.

15 MR. STEVE CONSOLE: FIVE WAS THE NEXT
16 PERSON.

17 THE COURT: I AM NOT GOING TO BRING THEM
18 ALL UP. TELL ME WHAT YOUR QUESTION IS.

19 MR. STEVE CONSOLE: I WAS GOING TO SAY
20 FIVE IS THE NEXT PERSON.

21 MS. MATTIACCI: FIVE DID RAISE HIS HAND.

22 MR. STEVE CONSOLE: EVERY PERSON RAISED
23 THEIR HAND TO THAT QUESTION.

24 THE COURT: LARRY, DO YOU HAVE ANYTHING
25 FOR FIVE?

1 MR. RAPPOPORT: I DON'T HAVE ANYTHING. I
2 DON'T EVEN HAVE FIVE DOWN.

3 THE COURT: I DON'T HAVE FIVE EITHER.

4 MR. RAPPOPORT: NOTHING OTHER THAN THAT,
5 YOUR HONOR.

6 THE COURT: OKAY.

7 THE DEPUTY CLERK: JUROR NUMBER FIVE,
8 COME FORWARD.

9 BY THE COURT:

10 Q. HELLO, SIR. THANKS FOR BEING HERE.

11 YOU RAISED YOUR HAND TO THE QUESTION
12 WHETHER YOU COULD BE FAIR AND IMPARTIAL. IS THERE ANY
13 REASON -- I DIDN'T WANT TO ASK YOU IN FRONT OF
14 EVERYBODY. WHAT IS THE REASON YOU CANNOT BE FAIR AND
15 IMPARTIAL?

16 A. I BELIEVE THAT TO BE FAIR AND IMPARTIAL I WOULD
17 NEED TO BE ABLE TO FOCUS ON THE CASE AND LISTEN TO THE
18 TESTIMONIES. AND IT'S GOING TO BE VERY DIFFICULT
19 BECAUSE OF THE TIME IN WHICH I WAS CALLED IN. I WAS
20 DIAGNOSED WITH ADHD WHEN I WAS SEVEN AND I KNOW THAT'S
21 GOING TO AFFECT ME A LOT.

22 WE HAVE A HUGE CIVIL ENGINEER JOB,
23 HIGHWAY AND BRIDGE DESIGN AND WORKING ON A \$25 MILLION
24 DESIGN JOB RIGHT NOW. AND WE HAVE HUGE SUBMISSIONS THAT
25 WERE PUSHED BACK THREE WEEKS AND DUE NEXT WEEK. AND I

1 AM IN CHARGE OF DEVELOPMENT OF ALL OF THE CONSTRUCTION
2 PLANS AND COORDINATION OF GETTING THE SURVEYS AND
3 EVERYTHING UP TO SPEED SO WE CAN GET THE SUBMISSIONS IN.
4 AND THAT'S GOING TO BE ON MY MIND THE ENTIRE TIME.

5 Q. I APPRECIATE YOU LETTING US KNOW ABOUT THAT. I
6 CAN TELL YOU THAT DOCTORS WHO HAVE SURGERY TOMORROW I
7 CANNOT EXCUSE THEM. I AM VERY HAPPY YOU TOLD ME BECAUSE
8 THE LAWYERS KNOW THAT.

9 THE COURT: DO YOU HAVE ANY FOLLOW-UP
10 QUESTIONS?

11 MS. MATTIACCI: NO.

12 BY MR. RAPPOPORT:

13 Q. DO I UNDERSTAND THAT IN ANSWER TO THE JUDGE'S
14 QUESTION BECAUSE OF YOUR CONDITION THAT YOU DON'T THINK
15 YOU CAN PAY ATTENTION TO THE TESTIMONY?

16 A. IT'S GOING TO BE EXTREMELY DIFFICULT. I HAVE A
17 LOT OF STUFF --

18 THE COURT: BECAUSE OF WHAT IS GOING ON?

19 BY MR. RAPPOPORT:

20 Q. BECAUSE OF YOUR MEDICAL CONDITION?

21 A. YES, EFFECTS ME BEING ABLE TO FOCUS. THAT'S THE
22 PRIMARY SYMPTOMS IT, FOCUS. AND I KNOW WHAT I AM
23 MISSING AND HOW MUCH STRESS IT'S GOING TO BE WHEN I GET
24 BACK TO WORK. IT'S GOING TO BE VERY DIFFICULT FOR ME.

25 THE COURT: ANYTHING ELSE, MR. RAPPOPORT?

1 MR. RAPPOPORT: NO, YOUR HONOR.

2 THE COURT: THANK YOU. DO YOU HAVE
3 ANYTHING FOR NINE, LARRY?

4 MR. RAPPOPORT: I DON'T THINK SO, NO.

5 THE COURT: OKAY. NINE.

6 MR. STEVE CONSOLE: HE OWNED THE COMPANY.
7 HE HAS TERMINATED PEOPLE.

8 MS. MATTIACCI: ALSO WAS A PART OF A
9 LAWSUIT I BELIEVE AS A WITNESS.

10 THE COURT: YES.

11 MS. MATTIACCI: AND EVALUATED PEOPLE.

12 MR. STEVE CONSOLE: YES.

13 THE COURT: DO YOU HAVE ANYTHING ON NINE?
14 LET'S BRING UP NUMBER NINE.

15 THE DEPUTY CLERK: JUROR NUMBER NINE.

16 BY THE COURT:

17 Q. HELLO, SIR. THANK FOR BEING HERE. YOU
18 MENTIONED IN RESPONSE TO A COUPLE OF QUESTIONS THAT YOU
19 HAVE A ROLE IN MANAGING EMPLOYEES, YOU DISCIPLINED
20 EMPLOYEES. WHY DON'T YOU TELL US ABOUT THAT?

21 A. I AM AN ARCHITECT. I WAS A PARTNER IN AN
22 ARCHITECTURE FIRM IN THE '90S AND I WAS THE MANAGING
23 PARTNER FOR THE FIRM. WE HAD AN OFFICE IN THE
24 CAROLINAS, AND I MANAGED THE PHILADELPHIA OFFICE. IT
25 WAS PRIMARILY HIRING PEOPLE AND SPLITTING THEM INTO

1 TEAMS AND MAKING SURE THE TEAM LEADERS WERE GETTING THE
2 WORK DONE.

3 Q. THAT WAS IN THE '90S. WHEN DID THAT STOP?

4 A. IN 2002 WE SPLIT THE PARTNERSHIP AND I STARTED
5 MY OWN FIRM AT THAT TIME.

6 Q. SINCE THAT TIME, HAVE YOU BEEN INVOLVED IN
7 EVALUATING AND FIRING EMPLOYEES?

8 A. NOT SINCE THEN.

9 Q. YOU WORK FOR YOURSELF?

10 A. NO. RIGHT NOW I AM AT A DIFFERENT FIRM.

11 Q. YOU HAVE NO ROLE IN MANAGING EMPLOYEES, THOSE
12 KINDS OF THINGS?

13 A. NO, I DON'T.

14 Q. WHEN YOU WERE RUNNING THE OFFICE, WAS THERE AN
15 ACCUSATION OF DISCRIMINATION BY ANY EMPLOYEES?

16 A. NO.

17 Q. DID YOU HAVE ANY ROLE IN YOUR CURRENT JOB IN
18 EVALUATING EMPLOYEES? YOU SAID YOU WORK FOR SOMEBODY
19 NOW. DO YOU EVALUATE OTHER EMPLOYEES?

20 A. NO.

21 THE COURT: PLAINTIFF, ANY QUESTIONS OF
22 NINE?

23 BY MS. MATTIACCI:

24 Q. YOU SAID YOU WERE INVOLVED IN A LAWSUIT AS A
25 WITNESS?

1 A. I'M SORRY?

2 Q. WERE YOU INVOLVED IN A LAWSUIT AS A WITNESS?

3 A. I AM -- YEAH, I AM A FORENSIC ARCHITECT. I
4 TESTIFY AS AN EXPERT.

5 Q. OKAY.

6 MS. MATTIACCI: THAT'S ALL.

7 BY THE COURT:

8 Q. YOU WERE NOT THE PARTY TO THE LAWSUIT?

9 A. NO.

10 Q. YOU ARE AN EXPERT?

11 A. TESTIFY AS AN EXPERT IN ARCHITECTURE.

12 MR. RAPPOPORT: I HAVE NO QUESTIONS, YOUR
13 HONOR.

14 THE COURT: THANK YOU VERY MUCH.

15 THE COURT: WHAT IS WITH 11?

16 MS. MATTIACCI: 11 WAS -- ANSWERED YES TO
17 AGE DISCRIMINATION; TO TEVA PHARMACEUTICAL; YES TO
18 OWNING A BUSINESS; YES TO EVALUATING EMPLOYEES.

19 THE COURT: OKAY.

20 MR. STEVE CONSOLE: I THINK HE SAID HE
21 WAS A JUROR IN AN EMPLOYMENT CASE.

22 MR. RAPPOPORT: I NEVER HEARD THAT.

23 THE COURT: I DON'T REMEMBER THAT.

24 THE COURT: NUMBER 11.

25 THE DEPUTY CLERK: JUROR NUMBER 11.

1 BY THE COURT:

2 Q. HELLO, MA'AM. THANK YOU FOR BEING HERE. I HAVE
3 TO FOLLOW UP WITH SOME QUESTIONS.

4 FIRST, YOUR RELATIONSHIP WITH TEVA, DO
5 YOU HAVE ANY RELATIONSHIP WITH TEVA?

6 A. NOT ME PERSONALLY, BUT MY COMPANY IN THE FORMER
7 YEARS, THEY WERE A CLIENT OF OURS AND I KNOW PEOPLE THAT
8 WERE FORMER EMPLOYEES.

9 Q. OKAY. DID ANY OF THOSE FORMER EMPLOYEES SUE
10 TEVA OR TEVA SUE THEM?

11 A. NO.

12 Q. IS THERE ANYTHING ABOUT THE FACT THAT YOU KNOW
13 TEVA FAIRED ONE SIDE OR THE OTHER?

14 A. NO.

15 Q. YOU TALKED ALSO ABOUT THE DISCRIMINATION,
16 POSSIBLY DISCRIMINATION OF AGE OR OTHERWISE?

17 A. YES.

18 Q. WHAT WAS THAT ABOUT?

19 A. A FRIEND OF MINE IS KIND OF GOING THROUGH -- SHE
20 FEELS LIKE SHE IS GOING THROUGH IT, BUT NOT SUING OR
21 ANYTHING.

22 Q. SO IS SHE SOMEONE YOU HAVE GIVEN ADVICE TO ABOUT
23 SUING HER EMPLOYER?

24 A. NO.

25 Q. OKAY. IS SHE SOMEONE THAT LIVES WITH YOU?

1 A. NO. IN THE SUMMER MONTHS.

2 Q. SHE IS SOMEONE YOU ARE HAVING DINNER WITH
3 BETWEEN NOW AND THE WEEK'S END?

4 A. NO.

5 Q. YOU ALSO MENTIONED ABOUT -- DID YOU SERVE ON A
6 JURY WITH AN EMPLOYMENT CASE?

7 A. IT WAS CRIMINAL.

8 Q. CRIMINAL CASE, OKAY. HERE? MUST BE STATE
9 COURT.

10 A. IT WAS ON 13TH STREET.

11 Q. PHILADELPHIA.

12 A. OKAY.

13 Q. IS THERE ANYTHING ABOUT THE FACT THAT YOUR
14 FRIEND HAS SOME AGE ISSUES OR CONCERNS WITH HER EMPLOYER
15 THAT WOULD MAKE IT HARD FOR YOU TO BE FAIR AND IMPARTIAL
16 REGARDING AGE ISSUES?

17 A. NO.

18 Q. YOU WOULD BE ABLE TO FOLLOW WHAT I SAY AND APPLY
19 THE LAW TO THE FACTS?

20 A. YES.

21 THE COURT: PLAINTIFF, ANY QUESTIONS?

22 MS. MATTIACCI: NO.

23 THE COURT: MR. RAPPOPORT?

24 MR. RAPPOPORT: I DON'T THINK SO, YOUR
25 HONOR.

1 THE COURT: THANK YOU FOR BEING HERE.

2 MR. STEVE CONSOLE: 13.

3 THE COURT: LARRY, ANYTHING FOR 13, OTHER
4 THAN THE OBVIOUS?

5 MR. RAPPOPORT: THE OBVIOUS IS PRETTY
6 OBVIOUS.

7 THE COURT: YES. NUMBER 13.

8 THE DEPUTY CLERK: JUROR NUMBER 13.

9 BY THE COURT:

10 Q. THANK YOU FOR BEING HERE.

11 SO I HAVE SOME QUESTIONS FOR YOU. I NEED
12 TO ASK THE FIRST ONE. FIRST OFF, YOU RAISED YOUR HAND
13 WHEN I ASKED WAS THERE ANYTHING ABOUT THIS CASE YOU
14 CANNOT BE FAIR AND IMPARTIAL?

15 A. YES. I AM A NATIONALISTIC. I WOULD BE GOING
16 FOR HIM.

17 Q. BECAUSE THE OTHER COMPANY IS FROM ISRAEL?

18 A. YES.

19 Q. INTERESTINGLY ABOUT THIS CASE, I WANT YOU TO
20 UNDERSTAND -- I AM NOT TRYING TO TALK YOU OUT OF IT.
21 THIS IS ABOUT -- A BIG PORTION OF IT IS ABOUT HORSHAM
22 AND ISRAEL. IS THERE ANYTHING --

23 A. I UNDERSTAND IT'S THE PARENT COMPANY.

24 Q. TRUE.

25 A. I HAVE ALSO BEEN IN A SITUATION LIKE THEM.

1 Q. TELL ME ABOUT THAT.

2 A. AN EMPLOYER TRYING TO GET RID OF ME, SO LIKE

3 JUST --

4 Q. BASED ON WHAT?

5 A. I PROVED HIM WRONG A COUPLE OF TIMES, THE

6 SUPERVISOR. I WAS A FOREMAN AT THE COMPANY AND EVERY

7 STEP OF THE WAY HE WAS TRYING TO FIRE ME.

8 Q. DID YOU THINK IT WAS BASED ON YOUR GENDER OR

9 AGE?

10 A. NO. HE DIDN'T LIKE ME.

11 Q. OKAY. YOU ALSO RAISED YOUR HAND ABOUT

12 DISCRIMINATION. HAVE YOU EVER FELT ANY SENSE OF

13 DISCRIMINATION?

14 A. IN THE SAME JOB.

15 Q. HE DIDN'T LIKE YOU?

16 A. YES.

17 Q. BUT IT WAS HE THOUGHT IT WAS FOR PERFORMANCE?

18 A. IT WAS FOR PERFORMANCE.

19 Q. IT WASN'T BECAUSE OF YOUR GENDER OR AGE?

20 A. IT'S CONSTRUCTION. WE ARE ALL MALE.

21 Q. HOW ABOUT YOUR VIEWS? I KNOW YOU SAID YOU'RE A

22 LITTLE BIT OF A NATIONALISTIC. DID THAT AFFECT HIS

23 ABILITY -- DO YOU THINK IT AFFECTED HIM?

24 A. NO.

25 Q. HE VIEWED YOU DIFFERENTLY?

1 A. YES.

2 Q. HOW LONG AGO WAS THAT?

3 A. THREE YEARS AGO, NOT EVEN.

4 Q. OKAY. SINCE THEN, HAVE YOU EVER HAD ANY OF
5 THOSE KINDS OF ISSUES?

6 A. NOT WITH THE NEW COMPANY I AM AT.

7 Q. OKAY. SO YOUR CONCERN IS YOU DON'T THINK YOU
8 CAN BE FAIR BECAUSE ONE OF THE DEFENDANTS IS FROM
9 ISRAEL?

10 A. YEAH.

11 Q. ONE OF THE COMPANIES IS FROM ISRAEL?

12 A. YES.

13 THE COURT: PLAINTIFF, ANY FOLLOW-UP
14 QUESTIONS?

15 MS. MATTIACCI: NO.

16 BY MR. RAPPOPORT:

17 Q. WHEN YOU DESCRIBED YOURSELF AS A NATIONALIST, IS
18 THAT SOMETHING TO DO WITH ISRAEL?

19 A. NO. FOR THE AMERICANS, THAT'S WHO I GO FOR.

20 THE COURT: THANK YOU.

21 DO YOU HAVE ANY FOLLOW-UP?

22 MR. STEVE CONSOLE: NO.

23 THE COURT: THANK YOU VERY MUCH.

24 OKAY. ANYTHING FOR 13?

25 MS. MATTIACCI: 16.

1 THE COURT: DO YOU HAVE ANYTHING BEFORE
2 16, LARRY?

3 MR. RAPPOPORT: 14.

4 MR. MCDONOUGH: 14 RAISED HER HAND ABOUT
5 AN AGE ISSUE.

6 MR. RAPPOPORT: LET'S START WITH 14.
7 BEFORE WE GET TO 15, 14 RAISED HER HAND ABOUT AGE
8 DISCRIMINATION. CAN WE ASK HER ABOUT THAT?

9 MS. MATTIACCI: I THOUGHT IT WAS 15.

10 MR. RAPPOPORT: I THOUGHT IT WAS 15, TOO.

11 THE COURT: 15.

12 THE DEPUTY CLERK: JUROR NUMBER 15.

13 BY THE COURT:

14 Q. THANK YOU FOR BEING HERE. I CAN'T TAKE YOUR
15 CARD. GOOD TRY.

16 YOU HAD RAISED YOUR HAND, I THINK -- I
17 HAVE A LOT OF NOTES HERE ABOUT YOU WERE AWARE OF
18 SOMEBODY -- YOU OR SOMEBODY YOU KNOW HAD AGE
19 DISCRIMINATION IN THE WORKPLACE. CAN YOU TELL ME ABOUT
20 THAT?

21 A. ME.

22 Q. TELL ME ABOUT THAT.

23 A. I WORKED FOR A VERY YOUTH-ORIENTED COMPANY. I
24 TURNED 40 AND THE NEXT WEEK I WAS LAID OFF. I ALSO
25 WORKED FOR -- MY BOSS WENT THROUGH THE SAME KIND OF

1 THING.

2 Q. HOW LONG AGO WAS THAT?

3 A. 40?

4 Q. I AM NOT ASKING YOU -- I DON'T MEAN IT THAT WAY.
5 IT WAS RIGHT AFTER YOU TURNED 40?

6 A. YES, SO OBVIOUSLY THAT'S --

7 Q. THAT'S OKAY. SO THE QUESTION IS RELATED TO YOUR
8 PERSONAL EXPERIENCE. DO YOU THINK IN FAIRNESS YOU COULD
9 SET THAT ASIDE IN THIS CASE ON THE ISSUE OF AGE
10 DISCRIMINATION, SOMEBODY BELIEVES THEY WERE
11 DISCRIMINATED AGAINST IF THEY WERE BEYOND THE AGE OF 40,
12 IS SOMETHING YOU COULD BE FAIR AND IMPARTIAL ABOUT IF IT
13 HAPPENED TO YOU?

14 A. I THINK I COULD.

15 Q. I WANT YOU TO THINK ABOUT IT. IT'S ONLY AGE.

16 A. IT'S A LONG TIME AGO.

17 Q. HAVE YOU WORKED SINCE THEN?

18 A. ABSOLUTELY.

19 Q. HAVE YOU EVER FACED THAT IN ANY OTHER JOB?

20 A. NO.

21 Q. DID YOU BRING A CLAIM?

22 A. NO. NO, I TOOK THE SUMMER OFF.

23 Q. GOOD FOR YOU.

24 THE COURT: PLAINTIFF?

25 MR. STEVE CONSOLE: NOTHING.

1 THE COURT: DEFENSE?

2 BY MR. RAPPOPORT:

3 Q. DO YOU THINK THAT COMPANIES TREAT EMPLOYEES
4 DIFFERENTLY BECAUSE OF AGE?

5 A. AT TIMES.

6 Q. IS THAT BASED ON YOUR PERSONAL EXPERIENCE OR
7 BASED ON OTHER THINGS THAT YOU MAY HAVE SEEN OR
8 OBSERVED?

9 A. OBSERVED.

10 Q. AND WHAT IS YOUR GENERAL FEELING ABOUT HOW
11 COMPANIES TREAT OLDER EMPLOYEES?

12 A. GENERALLY POSITIVE, I MEAN.

13 Q. OKAY. THANK YOU.

14 THE COURT: THANK YOU, MA'AM.

15 MR. RAPPOPORT: CAN WE BRING 13 BACK?

16 THE COURT: NOT WITHOUT A MARSHAL.

17 MR. RAPPOPORT: 18.

18 THE COURT: YES, I WAS THINKING 18 MAY BE
19 17.

20 MR. STEVE CONSOLE: 16? I GOT 18,
21 THOUGH. 18 RAISED HER HAND THAT SHE COULD NOT BE FAIR,
22 ACCORDING TO MY NOTES, AND WORKED WITH TEVA.

23 THE COURT: OKAY. DO YOU HAVE ANYTHING
24 BEFORE 18, LARRY?

25 MR. RAPPOPORT: ARE YOU ASKING 17,

1 WHETHER SHE IS GOING TO BRING THE BABY EVERY DAY?

2 THAT'S WHY I WENT TO 16. KNEW TEVA, BUT I DON'T KNOW IF

3 THAT'S SOMEBODY YOU WANT TO ASK ABOUT.

4 THE COURT: DO YOU WANT ME TO?

5 MR. RAPPOPORT: I WOULDN'T MIND.

6 THE COURT: 16.

7 THE DEPUTY CLERK: JUROR NUMBER 16.

8 BY THE COURT:

9 Q. HELLO, MA'AM. THANK YOU FOR BEING HERE.

10 A. YES.

11 Q. IT'S MONTGOMERY COUNTY. WE HAVE TO STICK

12 TOGETHER.

13 A. THAT'S RIGHT.

14 Q. YOU MENTIONED -- YOU RAISED YOUR HAND ABOUT

15 TEVA?

16 A. YES.

17 Q. HOW DO YOU KNOW TEVA?

18 A. THEY WERE MY -- AS A SENIOR MANAGEMENT RESEARCH

19 ANALYST, THEY WERE MY CLIENT FOR TEN YEARS. I PROVIDED

20 THEM DATA ON WHATEVER THEY WANTED TO KNOW AS FAR AS

21 WHERE THE PRODUCTS WERE GOING AND THAT KIND OF THING.

22 Q. WERE YOU EMPLOYED BY THEM OR AN OUTSIDE

23 CONSULTANT?

24 A. NO, I WAS EMPLOYED BY I.M.S. HEALTH.

25 Q. HOW LONG AGO WAS THAT?

1 A. TWO YEARS, BUT THEY WERE MY CLIENT FOR TEN
2 YEARS.

3 Q. OKAY. DO YOU KNOW MR. MIDDLEBROOKS?

4 A. NO.

5 Q. HAVE YOU EVER HEARD ANY STORIES ABOUT TEVA THAT
6 WOULD AFFECT YOUR ABILITY TO BE FAIR AND IMPARTIAL HERE?

7 A. NO.

8 Q. ANY STORIES IN THE WORKPLACE, COFFEE OVER THE
9 WATER COOLER, AFFECT YOUR ABILITY?

10 A. NO.

11 Q. DID THAT ROLE YOU HAVE HAVE ANYTHING TO DO WITH
12 HR?

13 A. NO. MY HUMAN RESOURCE WAS IN A PREVIOUS --
14 NOTHING WITH THE PHARMACEUTICALS.

15 Q. DID YOU DISCIPLINE AND EVALUATE EMPLOYEES?

16 A. YES.

17 Q. WAS THAT BEFORE THE JOB AT TEVA?

18 A. YES.

19 Q. WERE YOU EVER ACCUSED OF ANY TYPE OF
20 DISCRIMINATION IN THE WORKPLACE?

21 A. NO.

22 Q. OKAY. HAVE YOU EVER BEEN ACCUSED OF A HOSTILE
23 WORK ENVIRONMENT?

24 A. NO.

25 THE COURT: PLAINTIFF?

1 MR. STEVE CONSOLE: NO QUESTIONS.

2 BY MR. RAPPOPORT:

3 Q. THE TEN YEARS THAT YOU DID WORK FOR TEVA, IT WAS
4 FOR TEVA NOT AT TEVA?

5 A. EXACTLY.

6 Q. YOU WORKED FOR ANOTHER ORGANIZATION OR THIRD
7 PARTY?

8 A. ANOTHER COMPANY THAT PROVIDED DATA TO TEVA.

9 Q. AND THE TEN-YEAR SPAN, WHEN WAS THAT?

10 A. THIS MOST RECENT TEN-YEAR SPAN. I RETIRED LAST
11 YEAR.

12 Q. UP UNTIL THE TIME YOU RETIRED?

13 A. YES.

14 Q. GENERALLY, A FAIR AND PLEASURABLE EXPERIENCE?

15 A. YES.

16 THE COURT: THANK YOU VERY MUCH.

17 16.

18 MR. STEVE CONSOLE: 18, YOUR HONOR, CAN'T
19 BE FAIR.

20 THE COURT: DO YOU HAVE ANYTHING ON 17?

21 MR. RAPPOPORT: I AM CURIOUS HOW YOU ARE
22 GOING TO GET THERE. I HATE TO WASTE A STRIKE ON HER.

23 THE COURT: YEAH, LET'S SEE WHAT 17 PLANS
24 TO DO, IF SHE HAS COVERAGE FOR HER CHILD.

25 MR. RAPPOPORT: IT MAY BE SOMETHING THIS

1 MORNING.

2 THE DEPUTY CLERK: JUROR NUMBER 17.

3 BY THE COURT:

4 Q. CONGRATULATIONS. HOW OLD?

5 A. SHE IS 11 WEEKS TODAY.

6 Q. IS SHE ALWAYS THIS WELL BEHAVED?

7 A. SHE IS PRETTY GOOD.

8 Q. WE HAVE TO ASK YOU, HOW WOULD YOU EVER DO THIS?

9 A. I DON'T KNOW.

10 Q. YOU BRING YOUR GIRL WITH YOU WHEREVER?

11 A. YES.

12 Q. YOU ARE NOT WORKING?

13 A. I AM NOT AND DON'T HAVE CHILD CARE TO LEAVE HER.

14 Q. THAT'S MY QUESTION. SO EVEN LIKE FROM NOW TO
15 FRIDAY YOU WOULD NOT HAVE CARE FOR HER?

16 A. NO.

17 THE COURT: ALL RIGHT. ANY FURTHER
18 QUESTIONS?

19 MS. MATTIACCI: NO. SHE IS BEAUTIFUL.

20 MR. RAPPOPORT: DOES SHE EVER CRY?

21 PROSPECTIVE JUROR: SHE DOES.

22 THE COURT: ONLY WHEN THE JUDGE IS
23 TALKING.

24 18 IS FAIR AND IMPARTIAL.

25 THE DEPUTY CLERK: JUROR NUMBER 18.

1 BY THE COURT:

2 Q. THANK YOU FOR BEING HERE, MA'AM.

3 A. YOU'RE WELCOME.

4 Q. YOU RAISED YOUR HAND ABOUT BEING FAIR AND
5 IMPARTIAL. WE ARE INVESTING A LOT OF TIME AND EFFORT,
6 SO I AM CONCERNED WITH BEING FAIR AND IMPARTIAL.

7 A. I AM 59 AND A HALF. I HAD A SIMILAR EXPERIENCE
8 IN MY FORMER WORKPLACE A FEW YEARS AGO.

9 Q. WHAT DO YOU MEAN "SIMILAR"?

10 A. WELL, MY OFFICE WENT THROUGH A REORGANIZATION
11 AND I HAD SERVED THERE FOR TEN YEARS. DESPITE MY
12 STELLAR WORK PERFORMANCE EVALUATIONS, I WAS PART OF THE
13 REORGANIZATION. I WENT THROUGH A THREE-YEAR PERIOD OF
14 UNEMPLOYMENT. AND BEFORE I FOUND A JOB, AND DESPITE AN
15 IVY LEAGUE GRADUATE EDUCATION, NO ONE WANTED TO HIRE ME.

16 Q. DO YOU ATTRIBUTE THAT TO AGE?

17 A. YES, I THINK IN LARGE PART. AND I HAVE SEEN
18 MANY OF MY PEERS AND FRIENDS GO THROUGH SIMILAR
19 EXPERIENCES THAT THESE NEBULOUS REASONS ARE GIVEN FOR
20 PERFORMANCE EVALUATIONS AND CHANGE UP IN EMPLOYMENT.

21 MY OTHER ISSUE IS I HAVE A 55-YEAR
22 FRIENDSHIP WITH A PERSON WHO IS A SENIOR MANAGEMENT
23 PERSON AT THIS COMPANY IN KANSAS.

24 Q. DID YOU HEAR THAT NAME MENTIONED?

25 A. NO, IT WASN'T, BUT THAT WAS THE FIRST THING I

1 THOUGHT.

2 Q. IT HAS TO BE INTERESTING, YOU HAVE A FRIEND
3 THERE AND YOU THINK THEY ARE A GOOD COMPANY?

4 A. IT'S HER EMPLOYMENT. IT'S NOT LONG-TERM. BUT
5 WHEN WE ARE -- YOU ARE TRYING TO ASSEMBLE THIS IMPARTIAL
6 PANEL AND IT IS SOMEONE I HAVE BEEN WITH EVERY OTHER
7 DAY. WE ARE BEST FRIENDS AND I WANT TO BE IMPARTIAL.

8 Q. ON ONE SIDE YOU HAVE THIS EXPERIENCE, WHICH WAS,
9 I'M SURE, DIFFICULT. AND YOU HAVE THE EXPERIENCE, IN MY
10 MIND, WHICH LEADS YOU TO FAVOR SOME PLAINTIFF BECAUSE
11 YOU WERE DISCRIMINATED AGAINST AND THEN YOU HAVE THE
12 OTHER SIDE.

13 A. RIGHT, I AM RIGHT IN THE MIDDLE.

14 Q. HOW WOULD THAT AFFECT YOU? COULD YOU LISTEN TO
15 THE EVIDENCE?

16 A. YES, I WOULD. I WOULD LISTEN TO THE EVIDENCE.

17 Q. HAVE YOU MADE A JUDGMENT TODAY?

18 A. NO, I DON'T THINK SO. BUT I DON'T -- I KNOW
19 YOUR INSTRUCTIONS ARE THAT YOU ARE TRYING TO ASSEMBLE
20 IMPARTIAL JURORS. I FELT IT WAS ONLY FAIR TO PUT MY
21 CARD UP AND SAY THAT.

22 Q. THESE CLIENTS HAVE SPENT A LOT OF TIME TO BE
23 HERE AND I APPRECIATE YOU TELLING US THAT. IF YOU ARE
24 SELECTED, WE WANT TO KNOW THAT.

25 A. I KNOW YOU WANT TO ERR ON THE SIDE OF CREATING

1 AN IMPARTIAL POOL OF JURORS.

2 Q. I WANT JURORS TO THINK IF THIS WAS THEM. DID
3 YOU EVER RAISE A CLAIM ABOUT THAT ISSUE WITH YOUR FORMER
4 EMPLOYER?

5 A. I SOUGHT LEGAL ADVICE OF AN EMPLOYMENT ATTORNEY
6 WHO HELPED CRAFT MY PACKAGE.

7 Q. OKAY. AND DID THAT GET RESOLVED?

8 A. YES. IT WASN'T --

9 Q. YOU WERE NOT SATISFIED?

10 A. IT WASN'T AGE, BUT ONE OF THE SETTLEMENTS THAT
11 YOU JUST CREATE AS YOUR PACKAGE, YOUR GOODBYE PACKAGE.

12 Q. SEVERANCE PACKAGE. DID YOU FEEL LIKE YOU WERE
13 TREATED FAIRLY IN THAT ASPECT?

14 A. I DO.

15 Q. NOT DISCRIMINATION, BUT THE ASPECT?

16 A. I DO.

17 THE COURT: PLAINTIFF?

18 BY MR. STEVE CONSOLE:

19 Q. IF YOU HEARD ALL OF THE EVIDENCE IN THIS CASE,
20 DO YOU THINK YOU COULD BE FAIR AND IMPARTIAL?

21 A. I THINK I COULD. I DO. THE REASON I PUT UP FOR
22 IMPARTIAL IS I FELT LIKE I QUALIFIED FOR THESE TWO
23 DIFFERENT THINGS BECAUSE OF THE FRIENDSHIP WITH SOMEONE
24 WHO DOES WORK FOR THIS COMPANY AND HAVING A SIMILAR
25 EXPERIENCE. SO I WOULD BE IMPARTIAL IF I AM SELECTED.

1 THE COURT: OKAY. DEFENSE, I'M SORRY,
2 MR. MCDONOUGH.

3 BY MR. MCDONOUGH:

4 Q. SHORT-TERM RELATIONSHIP, YOU SAID THE TEVA
5 EMPLOYEE OR PERSON HAS A SHORT-TERM RELATIONSHIP WITH
6 TEVA. WHY SHORT-TERM?

7 A. SHE HAS ONLY BEEN WITH THE COMPANY FOR A YEAR.
8 OUR FRIENDSHIP IS A 55-YEAR FRIENDSHIP.

9 BY MR. RAPPOPORT:

10 Q. CHILDHOOD FRIENDS?

11 A. YES.

12 Q. AND SHE IS IN KANSAS CITY?

13 A. YES.

14 Q. WOULD YOU AGREE WITH ME THAT YOUR EXPERIENCE
15 WITH YOUR PRIOR COMPANY AND YOUR PERCEPTION AS TO HOW
16 YOU WERE TREATED MAY HAVE SOME INFLUENCE IN HOW YOU HEAR
17 THE EVIDENCE BECAUSE IT IS AN AGE CLAIM?

18 THE COURT: I AM GOING TO REPHRASE THAT.
19 IT'S NOT AN AGE CLAIM. BE CAREFUL.

20 MR. RAPPOPORT: I'M SORRY.

21 THE COURT: IT'S A PERFORMANCE CASE,
22 ISN'T IT?

23 MR. RAPPOPORT: THAT'S THE DEFENSE PART,
24 BUT THE CLAIM IS AGE AND NATIONAL ORIGIN AND
25 RETALIATION.

1 BY MR. RAPPOPORT:

2 Q. AND MY QUESTION IS, HOW WOULD YOUR EXPERIENCE
3 INFLUENCE YOUR ABILITY TO GIVE A FAIR AND IMPARTIAL
4 VERDICT?

5 A. WELL, I THINK WE ALL HAVE THESE -- YOU KNOW, THE
6 TIME YOU BECOME MY AGE, 59, YOU HAVE THIS BODY OF
7 EXPERIENCES THAT WE DRAW UPON. AS I SAID, I WOULD
8 PLEDGE TO BE IMPARTIAL ONCE I HEARD THE TESTIMONY. AT
9 THIS POINT, WE HAVE NOT BEEN PRESENTED WITH THE
10 EVIDENCE.

11 THE COURT: THAT'S RIGHT.

12 MR. STEVE CONSOLE: THANK YOU.

13 THE COURT: THANK YOU, MA'AM. THANK YOU
14 FOR BEING HERE.

15 THERE'S THREE STRIKES ON EACH SIDE AND SO
16 WE ARE 18. BEFORE I GO ANY FURTHER, I WILL HEAR IF
17 THERE ARE ANY GROUNDS.

18 MR. STEVE CONSOLE: JUROR NUMBER TWO,
19 YOUR HONOR.

20 THE COURT: ANY OPPOSITION TO JUROR
21 NUMBER TWO BEING STRUCK?

22 MR. RAPPOPORT: I DON'T HAVE ANY IDEA WHY
23 IT WOULD BE A CAUSE.

24 THE COURT: I WANT TO SAY OPPOSITION.
25 AND YOU SAY, JUDGE, YES, THERE IS.

1 MS. MATTIACCI: SHE SAID SHE COULD NOT BE
2 FAIR AND IMPARTIAL AND DIDN'T DEVIATE FROM THAT WHEN SHE
3 WAS QUESTIONED BY YOUR HONOR.

4 THE COURT: DEFENSE.

5 MR. RAPPOPORT: I DON'T BELIEVE SHE EVER
6 MADE THAT STATEMENT. MY NOTES DON'T SO REFLECT.

7 THE COURT: I AM TRYING TO RECALL. WE
8 HAD ONE OF THEM -- TWO OF THEM WHO DIDN'T CHANGE THEIR
9 VIEW.

10 MR. STEVE CONSOLE: SHE WAS THE FIRST ONE
11 WE BROUGHT UP.

12 THE COURT: HER CONCERN WAS SHE KNOWS THE
13 PEOPLE IN PHARMA.

14 MR. STEVE CONSOLE: WE SEE PEOPLE
15 COMPLAIN ABOUT THAT ALL THE TIME.

16 MR. RAPPOPORT: THERE'S A DIFFERENCE
17 BETWEEN THAT AND SAYING I CAN'T BE FAIR AND IMPARTIAL.

18 MR. STEVE CONSOLE: SHE SAID SHE CAN'T BE
19 FAIR AND IMPARTIAL AND SHE RAISED THAT EVERY TIME.

20 THE COURT: LET'S HOLD HER. WHAT IS THE
21 NEXT ONE?

22 MS. MATTIACCI: NUMBER THREE SAID HE
23 COULD NOT BE FAIR. HE SAID THAT HE WAS THE VICTIM OF
24 DISCRIMINATION.

25 THE COURT: BECAUSE OF THE ASIAN

1 BACKGROUND.

2 MS. MATTIACCI: YES.

3 MR. RAPPOPORT: I HAVE NO OBJECTION.

4 THE COURT: WE WILL STRIKE NUMBER THREE.

5 MR. STEVE CONSOLE: I DON'T KNOW, YOUR
6 HONOR, WHAT -- NUMBER FIVE IS SORT OF A QUESTION FOR
7 EVERYBODY. THIS IS THE "I CAN'T FOCUS" PERSON.

8 THE COURT: THAT WOULD NOT BE ENOUGH.

9 ANYTHING ELSE? DO YOU HAVE NUMBER FIVE?

10 MR. RAPPOPORT: ARE YOU CHALLENGING FOR
11 CAUSE?

12 MR. STEVE CONSOLE: NO I AM JUST RAISING
13 THE QUESTION.

14 THE COURT: DO YOU WISH TO CHALLENGE
15 ANYBODY?

16 MR. RAPPOPORT: I WOULD CHALLENGE FOR
17 CAUSE IF HE IS NOT GOING TO BE ABLE TO LISTEN TO THE
18 EVIDENCE. HE HAS FOCUS ISSUES.

19 THE COURT: THAT'S ALONG THE LINES OF
20 DYSLEXIA. YOU CAN STRIKE HIM. THAT MAY BE A BENEFIT TO
21 YOU.

22 MR. STEVE CONSOLE: YOU KNOW, YOUR HONOR,
23 17, SHE IS OFF.

24 THE COURT: 17 IS OFF, YEAH. ANYBODY
25 ELSE FOR CAUSE?

1 MR. RAPPOPORT: 13, OBVIOUSLY.

2 THE COURT: BEFORE THAT, ANYBODY ELSE FOR
3 15?

4 MR. RAPPOPORT: ON 17?

5 THE COURT: 17, DO YOU HAVE A PROBLEM
6 WITH 17 BEING STRUCK?

7 MR. RAPPOPORT: NO.

8 THE COURT: ANYBODY OTHER THAN THOSE?

9 MR. RAPPOPORT: 13.

10 THE COURT: OPPOSITION TO 13 BEING
11 STRUCK?

12 MR. STEVE CONSOLE: YES.

13 THE COURT: GIVE ME YOUR REASONS.

14 MR. RAPPOPORT: HE IS A NATIONALIST WHO
15 HAS NEGATIVE INFLUENCE WITH REGARD TO FOREIGN COMPANIES,
16 INCLUDING AN ISRAELI COMPANY. SEEMS HE IS NOT GOING TO
17 BE ABLE TO LISTEN TO THE ACTIVITY -- PROCLIVITY THAT
18 AMERICAN COMPANIES ARE NEGATIVELY INFLUENCED WHEN THERE
19 IS AN ACCUSATION BY A FOREIGN PRINCIPLE.

20 MR. STEVE CONSOLE: I DON'T THINK THAT HE
21 WAS ASKED THE BASIC QUESTION, WHICH IS DESPITE WHAT HIS
22 VIEWS ARE, SINCE EVERYBODY COMES IN THE COURTROOM WITH
23 THE VIEWS, CAN HE LISTEN TO THE EVIDENCE AND MAKE A
24 DECISION BASED ON THE EVIDENCE. I DON'T BELIEVE, I
25 MIGHT BE MISTAKEN, THAT THAT QUESTION WAS EVER ASKED OF

1 HIM.

2 MR. RAPPOPORT: I DIDN'T HAVE THE CHANCE.
3 HE IS HIMSELF IDENTIFIED AS A NATIONALIST. THIS IS A
4 GLOBAL COMPANY BASED IN ISRAEL. IT SEEMS TO ME THAT HE
5 HAS SO MUCH BAGGAGE THAT THERE IS NO WAY HE CAN BE FAIR
6 AND IMPARTIAL.

7 THE COURT: I AM GOING TO GRANT THE
8 MOTION TO STRIKE 13 FOR CAUSE.

9 MR. RAPPOPORT: 18.

10 MR. STEVE CONSOLE: SHE COULD NOT BE MORE
11 CLEAR.

12 THE COURT: WHAT IS YOUR PREMISE?

13 MR. RAPPOPORT: 18 SAID THAT HER OWN
14 PERSONAL EXPERIENCES WERE SUCH THAT SHE HAD A SEPARATION
15 BECAUSE OF HER AGE THAT OTHERS LIKE HER WERE SEPARATED,
16 IT TOOK HER THREE YEARS TO FIND A JOB AND THAT JOB
17 SEARCH -- SHE THINKS THERE WAS A BIAS AGAINST THE AGE.
18 I DON'T THINK SHE CAN BE FAIR GIVEN THE FACT IT IS AN
19 AGE CASE. IF IT WAS A GENDER CASE, I WOULDN'T FEEL THAT
20 WAY AT ALL.

21 MR. STEVE CONSOLE: SHE STATED
22 REPEATEDLY --

23 MR. RAPPOPORT: SHE THINKS SHE CAN BE
24 FAIR.

25 THE COURT: COUNSEL.

1 MR. RAPPOPORT: I'M SORRY, YOUR HONOR.

2 MR. STEVE CONSOLE: OBVIOUSLY YOU CAN
3 STRIKE HER ON PREEMPTORY IF YOU WANT TO. THERE IS
4 NOTHING ABOUT WHAT SHE SAID. SHE WAS VERY CANDID, VERY
5 CLEAR, EVEN DESPITE CROSS-EXAMINATION. SHE INDICATED
6 THAT SHE COULD BE FAIR AND IMPARTIAL AND BASE THE CASE
7 ON THE EVIDENCE.

8 MR. RAPPOPORT: ONE SECOND, I ASKED
9 REPEATEDLY AND ALL SHE KEPT SAYING IS, I THINK. SHE WAS
10 NEVER EMPHATIC.

11 THE COURT: LET ME ASK YOU FROM A
12 CONSISTENCY STANDPOINT, HOW IS SHE DIFFERENT THAN TWO?
13 YOU SAID YOU ARE OPPOSED TO STRIKING TWO.

14 MR. RAPPOPORT: I DON'T THINK TWO IS
15 TALKING ABOUT ANY PERSONAL EXPERIENCES.

16 MS. MATTIACCI: YES, SHE WAS.

17 THE COURT: THAT'S THE QUESTION I HAVE.
18 SHE SAID EVERY TIME THEY YELL AND SCREAM DISCRIMINATION
19 EVERY TIME THEY DON'T PERFORM. SHE HAS THE PERSONAL
20 VIEWPOINT OF SOMEBODY WHO IS THE EMPLOYER, WHEREAS THIS
21 PERSON IS THE PERSON YOU POINTED TO AS THE EMPLOYEE.
22 ARE THEY BOTH OUT OR BOTH IN?

23 MR. RAPPOPORT: I WOULD SAY BOTH OUT.

24 MS. MATTIACCI: I WOULD SAY THERE'S A BIG
25 DIFFERENCE. NUMBER TWO SAID SHE CANNOT BE FAIR AND

1 IMPARTIAL AND NUMBER 18 SAID SHE CAN.

2 THE COURT: I AM GOING TO DENY THE MOTION
3 ON 18. I FOUND HER TO BE CREDIBLE IN HER ANSWERS. I
4 ASKED HER AND YOU ASKED HER AND SHE SAID SHE THINKS SHE
5 CAN. WHEN I ASKED HER SPECIFICALLY IF SHE CAN BE FAIR
6 ON THE ISSUE BECAUSE SHE LIVED THERE, SHE SAID I WILL
7 LISTEN TO THE EVIDENCE AND SEEMED TO VERY MUCH
8 UNDERSTAND THAT. I AM NOT GOING TO DO IT FOR CAUSE.

9 MY CONCERN WITH NUMBER TWO IS THAT SHE --
10 IT'S NOT CONNECTING TODAY, ALTHOUGH SHE DID SAY SHE
11 COULD NOT BE FAIR AND IMPARTIAL. I AM GOING TO GRANT
12 THE MOTION FOR CAUSE ON NUMBER TWO, GIVING THE VIEW
13 SIMILAR TO NUMBER THREE, THAT SHE CANNOT BE FAIR AND
14 IMPARTIAL.

15 SO I HAVE STRICKEN 2, 3, 13 AND 17, WHICH
16 LEAVES YOU WITH 14, 8 JURORS, THREE STRIKES EACH SIDE.
17 PLAINTIFF GETS THE SHEET FIRST AND DEFENSE GET THE SHEET
18 NEXT. AND THEN COUNSEL, WHEN WE PICK THE JURY, WE WILL
19 SWEAR THEM AND LET YOU GET A SANDWICH BEFORE WE DO THE
20 OPENINGS.

21 MR. RAPPOPORT: YOUR HONOR, I JUST WANT
22 YOU TO KNOW THAT THE FIRST WITNESS IS A VIDEOTAPE AND IT
23 IS OVER THREE HOURS LONG.

24 (SIDEBAR CONCLUDED.)

25

1 (SIDEBAR CONCLUDED.)

2 (JUDGE SPEAKS TO THE JURY OFF THE
3 RECORD.)

4 THE COURT: LADIES AND GENTLEMEN, THE
5 MADAM DEPUTY IS GOING TO IDENTIFY THE EIGHT PERSONS WHO
6 ARE GOING TO BE SEATED IN TWO ROWS OF FOUR AND THE
7 DEPUTY WILL TELL YOU HOW TO BE SEATED.

8 THE DEPUTY CLERK: IF I CALL YOUR NAME,
9 PLEASE BRING EVERYTHING UP WITH YOU. IT DOESN'T MATTER
10 WHICH SIDE YOU COME UP, WHATEVER SIDE IS EASIER, AND I
11 WILL TAKE YOUR CARD FROM YOU.

12 THE FIRST JUROR WILL BE JASON HILL. THE
13 SECOND JUROR WILL BE ROBERT CAMP. THE THIRD JUROR WILL
14 BE DAVID KENNEY. THE FOURTH JUROR WILL BE JEFFREY
15 BOWMAN. THE FIFTH JUROR WILL BE AMY FORRESTEL. THE
16 SIXTH JUROR WILL BE WILLIAM WASHINGTON. THE SEVENTH
17 JUROR WILL BE MARY LABIANCA. THE EIGHTH JUROR WILL BE
18 BRIGITTE BAKER.

19 EVERYBODY ELSE, IF YOU TAKE ALL OF YOUR
20 BELONGINGS AND FOLLOW ME OUT.

21 THE COURT: THANK YOU, LADIES AND
22 GENTLEMEN, FOR BEING HERE. YOU MAY TURN YOUR CHAIRS
23 AROUND.

24 YOU MAY BE SEATED WHILE WE WAIT FOR THE
25 OATH. MADAM DEPUTY WILL SWEAR YOU AS JURORS AND THEN I

1 WILL EXCUSE YOU FOR A SANDWICH AND WE WILL COME BACK AND
2 HAVE OPENING STATEMENTS. I WILL GIVE YOU SOME
3 PRELIMINARY INSTRUCTIONS AS TO HOW THIS WORKS. YOU HAVE
4 SEEN IT ON TV BUT I'M GOING TO TELL YOU HOW IT WORKS IN
5 REALITY. SO MADAM DEPUTY WILL SWEAR YOU AND THEN WE'LL
6 TAKE A BREAK AND I WILL TELL YOU WHAT THAT MEANS AFTER
7 SHE SWEARS YOU.

8 THE DEPUTY CLERK: JURORS, IF YOU WILL
9 PLEASE RISE AND RAISE YOUR RIGHT HAND.

10 (JURY SWORN.)

11 (AT THIS TIME PRELIMINARY INSTRUCTIONS
12 WERE GIVEN BY THE COURT AND OPENING STATEMENTS WERE
13 GIVEN, AND ARE FILED UNDER SEPARATE COVER.)
14

15 I CERTIFY THAT THE FOREGOING IS A CORRECT
16 TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE
17 ABOVE-ENTITLED MATTER.
18

19

20

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3/22/19
DATE

OFFICIAL COURT REPORTER

LYNN MCCLOSKEY, RPR

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